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TRANSMITTAL
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**DATE:** May 3, 2019

**CLIENT/MATTER:** 608-01

**TO:** MuckRock News  
DEPT MR 68972  
411A Highland Avenue  
Somerville, MA 02144-2516

**FROM:** Jenell Van Bindsbergen  
Assistant City Attorney  
for City of Clovis

**RE:** PRA Request – Policy Manual

Pursuant to your Public Records Act Request dated February 15, 2019, please find enclosed copies of responsive materials in the custody, possession or control of the Clovis Police Department. Thank you.

☒ *For your information/file*

☐ *Per your request*

☐ *For your review and comment*

☐ *Sign, date and return*

☐ *Please call upon receipt*

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# Clovis Police Department

## Clovis Police Department Policy Manual

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### **MESSAGE FROM THE CHIEF**

As you look through these policies and procedures you will find they were designed to provide practical and helpful information, such as how to perform important tasks, important policies and in some cases general information. These policies are here to assist you. At the Clovis Police Department our motto is to "do the right thing." Our goal is to hire people who see the big picture in life, have a global vision and are compassionate crime fighters. Many situations are not covered by a specific policy, and we must always look to "do the right thing." I have included an important document as part of this policy and procedure manual.

### **Department Mission and Philosophy**

This department Mission and Philosophy statement is unique to our department. It didn't come out of a book or seminar, but was developed by members of our department. These principles are timeless and as true today as when they were written. Our department Mission and Philosophy statement is here to provide a very real blue print for a successful career here at the Clovis Police Department.

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### **MISSION STATEMENT AND PHILOSOPHY OF THE CLOVIS POLICE DEPARTMENT**

#### **MISSION STATEMENT:**

*TO PROVIDE SUPERIOR PROTECTION AND SERVICE IN A MANNER THAT BUILDS PUBLIC CONFIDENCE AND IMPROVES THE QUALITY OF LIFE IN OUR COMMUNITY. TO THOSE WE SERVE, WE WANT TO BE THE BEST!*

#### **ORGANIZATIONAL PHILOSOPHY:**

##### **I. PROTECTION**

We do not accept the notion that the public must learn to live with a certain level of crime or disruption. If an incident, no matter how small, is important enough for someone to call us, it's important enough to get our best efforts. To a crime victim or citizen in distress, there is no such thing as a routine call or a minor offense. We want the criminal element to know that Clovis is not the place to come. We take all crime very seriously and firmly believe in incarceration as an effective tool in protecting the public. Basically, crooks belong in jail!

##### **II. RESPECT FOR INDIVIDUALS**

We will demonstrate respect for human dignity and individual rights. We will treat everyone with as much dignity and respect as possible. No matter what the provocation, there is no excuse for being less than professional, or behaving in such a way that it reflects poorly upon ourselves or the department. Within the department, we will treat each other with common courtesy and care. Everyone is important and will be treated respectfully, fairly, and equally.

##### **III. SERVICE**

We wish to excel in the manner in which we deliver services. We will oftentimes be contacted by citizens as a place of last resort. No matter whose "job" it is, if it's possible to help someone, we will. No one gets the run-around. Service is everyone's job! To maintain the confidence of the public, we must get the job done; excuses don't count. When a problem or need is identified, we will take care of it as quickly and effectively as possible, within legal and ethical guidelines. We will also take a broader view of neighborhood and crime problems and focus on root causes. Our range of solutions will be broad based and may involve working as a team with the community, other City departments, other government agencies, the media, private enterprise, or other resources.

##### **IV. QUALITY**

We recognize that how we get the job done is just as important as getting it done. We will perform all our duties in a manner that builds public confidence. Our community expects and deserves the best in police services. We are committed to providing that.

##### **V. BEING CLOSE TO THOSE WE SERVE**

We will listen to those we serve and honestly evaluate and act on the information they provide. We will continually ask how we are doing and, most importantly, how we can be better. When we receive a complaint, we will seize upon it as an opportunity to learn and improve. We recognize

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## MISSION STATEMENT AND PHILOSOPHY OF THE CLOVIS POLICE DEPARTMENT

that those we serve include more than just the public. They include all those we provide a service to, such as other department members, other city departments, and allied agencies.

### Department Members

We recognize that our department is actually the people who work here. We take great pride in our staff. We hire only the best, and provide them with the training and environment that enables them to develop to their full professional capabilities. By seeking cultural diversity in the background of those we hire, we also recognize the importance of our department representing the entire community we serve.

### Participation

All members of the department are expected to be directly involved in carrying out the overall mission of the department and the City of Clovis. Whenever possible, each person will be involved in decisions that affect them. Participation yields far more creative decisions and more effective implementation than individual decision making.

### Innovation

Every member of the department is also expected to seek out better ways of doing their job as well as better ways for the department to accomplish its mission. New ideas and initiative are encouraged. We also strive to be alert for new methods and procedures that might assist us in accomplishing our objectives. There are no bad ideas.

### Teamwork

Teamwork is mandatory. Every major success in an organization happens as a result of people working together and supporting each other. The elements of a successful team are selflessness, trust, communication, and cooperation. We will constantly work to maintain an organizational climate that supports and insists on teamwork at all levels. As an organization, we are also members of other, broader teams. We strive to maintain excellent relationships with all other groups and to have a reputation of being helpful and easy to work with.

### Communication

Information is a resource for interaction and accomplishment. We cannot be an effective team or meet our responsibilities and expectations without communicating constantly throughout the department. There is no "chain of command" for information. We will encourage communication up, down, across, and diagonally throughout the organization. We cannot give each other too much information.



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### **LAW ENFORCEMENT CODE OF ETHICS**

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality and justice.

I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.

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## **Chapter 1 - Law Enforcement Role and Authority**

## Law Enforcement Authority

### 100.1 PURPOSE AND SCOPE

The purpose of this policy is to affirm the authority of the members of the Clovis Police Department to perform their functions based on established legal authority.

### 100.2 PEACE OFFICER POWERS

Sworn members of this department are authorized to exercise peace officer powers pursuant to applicable state law (Penal Code § 830.1 et seq.).

#### 100.2.1 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE CLOVIS POLICE DEPARTMENT

The arrest authority outside the jurisdiction of the Clovis Police Department includes (Penal Code § 830.1; Penal Code § 836):

- (a) When the officer has probable cause to believe the person committed a felony.
- (b) When the officer has probable cause to believe the person has committed a misdemeanor in the presence of the officer and the officer reasonably believes there is immediate danger to person or property or of escape.
- (c) When the officer has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized even if not committed in the presence of the officer such as certain domestic violence offenses and there is immediate danger to person or property or of escape or the arrest is mandated by statute.
- (d) When authorized by a cross jurisdictional agreement with the jurisdiction in which the arrest is made.
- (e) In compliance with an arrest warrant.

On-duty arrests will not generally be made outside the jurisdiction of this department except in cases of hot or fresh pursuit, while following up on crimes committed with the City or while assisting another agency.

On-duty officers who discover criminal activity outside the jurisdiction of the City should when circumstances permit, consider contacting the agency having primary jurisdiction before attempting an arrest.

#### 100.2.2 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE CLOVIS POLICE DEPARTMENT

The arrest authority within the jurisdiction of the Clovis Police Department includes (Penal Code § 830.1; Penal Code § 836):

- (a) When the officer has probable cause to believe the person has committed a felony, whether or not committed in the presence of the officer.
- (b) When the officer has probable cause to believe the person has committed a misdemeanor in this jurisdiction and in the presence of the officer.

***Law Enforcement Authority***

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- (c) When the officer has probable cause to believe the person has committed a public offense outside this jurisdiction, in the presence of the officer and the officer reasonably believes there is an immediate danger to person or property, or of escape.
- (d) When the officer has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized or required by statute even though the offense has not been committed in the presence of the officer such as certain domestic violence offenses.
- (e) In compliance with an arrest warrant.

**100.2.3 TIME OF MISDEMEANOR ARRESTS**

Officers shall not arrest a person for a misdemeanor between the hours of 10:00 p.m. of any day and 6:00 a.m. of the next day unless (Penal Code § 840):

- (a) The arrest is made without a warrant pursuant to Penal Code § 836 which includes:
  - 1. A misdemeanor committed in the presence of the officer.
  - 2. Misdemeanor domestic violence offenses (See the Domestic Violence Policy).
- (b) The arrest is made in a public place.
- (c) The arrest is made with the person in custody pursuant to another lawful arrest.
- (d) The arrest is made pursuant to a warrant which, for good cause shown, directs that it may be served at any time of the day or night.

**100.2.4 OREGON AUTHORITY**

Sworn members of this department who enter the state of Oregon in order to provide or attempt to provide law enforcement assistance have Oregon peace officer authority within 50 miles from the California-Oregon border (ORS 133.405). Such authority shall only apply when officers are acting:

- (a) In response to a request for law enforcement assistance initiated by an Oregon sheriff, constable, marshal, municipal police officer or member of the Oregon State Police.
- (b) In response to a reasonable belief that emergency law enforcement assistance is necessary to preserve life, and circumstances make it impractical for Oregon law enforcement officials to formally request assistance.
- (c) For the purpose of assisting Oregon law enforcement officials with emergency assistance in response to criminal activity, traffic accidents, emergency incidents or other similar public safety situations, regardless of whether an Oregon law enforcement official is present at the scene of the incident.

Clovis Police Department officers have no authority to enforce Oregon traffic or motor vehicle laws.

Whenever practicable, officers should seek permission from a department supervisor before entering Oregon to provide law enforcement services. As soon as practicable, officers exercising law enforcement authority in Oregon shall submit any appropriate written reports concerning the incident to the Oregon agency having primary jurisdiction over the area in which the incident occurred.



# Clovis Police Department

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### *Law Enforcement Authority*

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#### **100.3 POLICY**

It is the policy of the Clovis Police Department to limit its members to only exercise the authority granted to them by law.

While this department recognizes the power of peace officers to make arrests and take other enforcement action, officers are encouraged to use sound discretion in the enforcement of the law. This department does not tolerate the abuse of law enforcement authority.

#### **100.4 INTERSTATE PEACE OFFICER POWERS**

Peace officer powers may be extended to other states:

- (a) As applicable under interstate compacts, memorandums of understanding or mutual aid agreements in compliance with the laws of each state.
- (b) When an officer enters an adjoining state in close or fresh pursuit of a person believed to have committed a felony (ARS § 13-3832; NRS 171.158; ORS 133.430).

The person arrested out of state must be taken without unnecessary delay before a magistrate of the county in which the arrest was made (ARS § 13-3833; NRS 171.158; ORS 133.440).

#### **100.5 CONSTITUTIONAL REQUIREMENTS**

All members shall observe and comply with every person's clearly established rights under the United States and California Constitutions.

## **Chief Executive Officer**

### **102.1 PURPOSE AND SCOPE**

The California Commission on Peace Officer Standards and Training (POST) has mandated that all sworn officers and dispatchers employed within the State of California shall receive certification by POST within prescribed time periods.

#### **102.1.1 CHIEF EXECUTIVE OFFICER REQUIREMENTS**

Any chief executive officer of this department appointed after January 1, 1999, shall, as a condition of continued employment, complete the course of training prescribed by POST and obtain the Basic Certificate by POST within two years of appointment (Penal Code § 832.4).

## Oath of Office

### 104.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that oaths, when appropriate, are administered to department members.

### 104.2 POLICY

It is the policy of the Clovis Police Department that, when appropriate, department members affirm the oath of their office as an expression of commitment to the constitutional rights of those served by the Department and the dedication of its members to their duties.

### 104.3 OATH OF OFFICE

All department members, when appropriate, shall take and subscribe to the oaths or affirmations applicable to their positions. All sworn members shall be required to affirm the oath of office expressing commitment and intent to respect constitutional rights in discharging the duties of a law enforcement officer (Cal. Const. Art. 20, § 3; Government Code § 3102). The oath shall be as follows:

"I, (employee name), do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter."

### 104.4 MAINTENANCE OF RECORDS

The oath of office shall be filed as prescribed by law (Government Code § 3105).

## **Philosophy**

### **105.1 PROTECTION**

We do not accept the notion that the public must learn to live with a certain level of crime or disruption. If an incident, no matter how small, is important enough for someone to call us, it's important enough to get our best efforts. To a crime victim or citizen in distress, there is no such thing as a routine call or a minor offense.

We want the criminal element to know that Clovis is not the place to come. We take all crime very seriously and firmly believe in incarceration as an effective tool in protecting the public. Basically, crooks belong in jail!

### **105.2 MANAGEMENT STYLE**

Decision making will be made at the lowest level possible. The personal development of all personnel accompanied by a sense of faith in their abilities, a sense of their worth as individuals and as members of a team, and an appreciation for their individual career interests will continuously be given consideration. We will display a positive posture that always asks the question, "How can we make it happen?"

### **105.3 PROBLEM SOLVING**

The organization will maintain a positive problem-solving attitude in its response to any community or citizen request. In order to achieve this goal the department will:

- (a) Maintain, as the department's key to responsiveness, a high degree of flexibility accompanied by a maximum use of non-sworn personnel.
- (b) Maintain and continue to enhance a low profile, generalist team approach to providing law enforcement services to the community.
- (c) Maintain an environment that is conducive to change and will experiment with new and different approaches to the law enforcement task as the needs determine and as there remains an irrevocable requirement to search for more effective modes for service delivery.
- (d) Utilize community input to determine service needs and evaluate the operational services provided.

### **105.4 RELATIONS WITH CITY AGENCIES**

The organization will maintain a continuous emphasis and interest in the integration of its services and activities with all other City departments and efforts.

## *Philosophy*

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### **105.5 COMMUNITY RELATIONS**

The organization will continue to support and make every effort to enlarge good, solid working relationships with citizen groups in order to establish a partnership in mutual endeavor of community safety.

### **105.6 COMMITMENT TO YOUTH**

The organization will operate from a posture of sensitivity to youth and their problems. This sensitivity should be apparent through:

- (a) Programs to promote youth/officer relationships
- (b) Referral and diversified techniques whenever possible
- (c) Counseling
- (d) Rehabilitation rather than punitive efforts

#### **105.6.1 YOUTH SERVICES MISSION STATEMENT**

"To encourage youth within the City of Clovis to consistently demonstrate behavior that produces social, emotional, educational and economic success."

#### **105.6.2 WORKING WITH PARENTS**

Clovis Police department contact with juveniles can sometimes trigger a strong emotional reaction from a parent. This emotional reaction can lead to a parent feeling compelled to "defend" their child. Parents can be argumentative, defensive, threatening, irrational, in denial, and they will lie and question your authority. Our collective response to these situations is critical for health and welfare of our community. Our approach to these calls should encompass listening to a parent's concerns while standing firm about the misconduct of the juvenile and the reality that there are consequences to poor decisions and bad judgment. Although this sounds simple, it can be difficult.

Our collective response and the application of consistent consequences for juvenile misbehavior is critical to deterring juvenile crime, maintaining a low crime rate, protecting juveniles from negative influences and reducing calls for service. A guideline to use when dealing with parents is provided below:

- (a) Provide parents with a brief explanation about the reason for the law enforcement contact and action.
- (b) Allow parents a short amount of time to express their concerns and at the same time acknowledge your understanding about their reactions and concerns.
- (c) Refocus the parent on the juvenile's misbehavior and the reason for law enforcement intervention.
- (d) Complete the law enforcement action that is necessary to hold the juvenile accountable.

## *Philosophy*

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- (e) Encourage parents to utilize the intervention services provided through the Youth Services Division.
- (f) If necessary, refer the parent to follow-up with a supervisor.

It is important to remember that during these discussions, parents will often want to focus on things other than the attitude, behavior and decisions of their child. CPD personnel responding to the parent should limit the conversation to the behavior of the juvenile rather than "other issues." Allowing parents to discuss other issues, allows parents to refocus the problem toward other people or other circumstances and allows the parent to place responsibility on something other than the juvenile's misbehavior. If a parent does not hear and accept your explanation the first or second time, it is unlikely the parent will accept your explanation. Therefore, you should move on, take the action that you need to take and encourage the parent to talk with Youth Services to help the juvenile improve his/her behavior.

### **105.7 DETERRENCE OF CRIME**

In deploying patrol forces to deter crime and to inspire public confidence in its ability to ensure a peaceful environment, law enforcement must strike a balance between the desirable deterrent effect of visible patrol and any undesirable appearance of oppression.

### **105.8 RESPECT FOR THE LAW**

It is the responsibility of each peace officer to create an atmosphere where respect for the law and the legal system can flourish. Each officer is, therefore, expected to have conduct, both on and off duty, which is above reproach.

### **105.9 COMMAND RESPONSIBILITY**

A commander has responsibility and accountability for every aspect of the command. Accordingly, within policy guidelines and legal constraints, a Commander has the authority to coordinate and direct assigned personnel and other allocated resources in achieving organizational objectives. The full range of administrative functions must be performed relying upon policy, direction, training and personal initiative to guide the command in achieving the highest level of performance possible.

### **105.10 EDUCATION**

In fulfilling its commitment to provide professional police service, the department encourages all employees to further their education to the highest level possible. As an organization, we believe education is a vehicle toward encouraging a global perspective. It instills, in each individual, universal values that help us to accept our differences and recognize our similarities. Education also promotes forward thinking in that it develops skills for the future.

### **105.11 COURTESY AND RESPECT FOR INDIVIDUALS**

Effective law enforcement depends on a high degree of cooperation between the organization and the community it serves. The practice of courtesy in all public contacts encourages understanding

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and appreciation; discourtesy breeds contempt and resistance. The majority of the public are law abiding citizens who rightfully expect fair and courteous treatment by Department employees. While the urgency of a situation might preclude normal social amenities, discourtesy under any circumstances is indefensible. The practice of courtesy by an officer is not a manifestation of weakness, it is, in contrast, entirely consistent with the firmness and Impartiality that characterizes a professional peace officer.

We will demonstrate respect for human dignity and individual rights. We will treat everyone with as much dignity and respect as possible. No matter what the provocation, there is no excuse for being less than professional, or behaving in such a way that it reflects poorly upon us or the department. Within the department, we will treat each other with common courtesy and care. Everyone is important and will be treated respectfully, fairly, and equally.

### **105.12 SERVICE**

We wish to excel in the manner in which we deliver services. We will oftentimes be contacted by citizens as a place of last resort. No matter whose "job" it is, if it's possible to help someone, we will. No one gets the runaround. Service is everyone's job!

To maintain the confidence of the public, we must get the job done. Excuses don't count. When a problem or need is identified, we will take care of it as quickly and effectively as possible, within legal and ethical guidelines.

We will also take a broader view of neighborhood and crime problems and focus on root causes. Our range of solutions will be broad based and may involve working as a team with the community, other City departments, other government agencies, the media, private enterprise, or other resources.

### **105.13 CRITICISM OF THE CRIMINAL JUSTICE SYSTEM**

The department shares responsibility with the judiciary and other law enforcement and prosecution agencies in the criminal justice system. All elements of the system work toward common objectives and each element is functionally complimentary. The cooperative and harmonious working relationships which are essential in attaining those objectives are impaired by unnecessary criticism of others engaged in the administration of criminal justice. For that reason, officers should be aware of the effect upon law enforcement of any comments they make which might be interpreted as being critical of other law enforcement or prosecution agencies or individual members of the judiciary. However, it is not intended that there be any infringement of an officer's right to express his personal views regarding the criminal justice system in general or any trends which seem destructive of its efficacy.

### **105.14 QUALITY**

We recognize that how we get the job done is just as important as getting it done. We will perform all our duties in a manner that builds public confidence. Our community expects and deserves the best in police services. We are committed to providing that.

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### **105.15 PLANNING**

It is essential that there be planning in police service. The requirement that an employee plan actions is commensurate with the degree of responsibility and accountability for the results of the action.

As officers are routinely confronted with the unusual, it is impossible to provide standing procedures for officers to follow in each individual situation, therefore, officers must additionally be provided with policy guidelines to assist them in the necessary exercise of discretion. The combination of policy and procedures, reinforced by training, acts to provide officers with a structurally sound framework within which to function.

### **105.16 BEING CLOSE TO THOSE WE SERVE**

We will listen to those we serve and honestly evaluate and act on the information they provide. We will continually ask how we are doing and, most importantly, how we can be better. When we receive a complaint, we will seize upon it as an opportunity to learn and improve.

We recognize that those we serve include more than just the public. They include all those we provide a service to, such as other department members, other city departments, and allied agencies.

(a) **Department Members:**

1. We recognize that our department is actually the people who work here. We take great pride in our staff. We hire only the best, and provide them with the training and environment that enables them to develop to their full professional capabilities. By seeking cultural diversity in the background of those we hire, we also recognize the importance of our department representing the entire community we serve.

(b) **Participation:**

1. All members of the department are expected to be directly involved in carrying out the overall mission of the department and the City of Clovis. Whenever possible, each person will be involved in decisions that affect them. Participation yields far more creative decisions and more effective implementation than individual decision making.

(c) **Innovation:**

1. Every member of the department is also expected to seek out better ways of doing their job as well as better ways for the department to accomplish its mission. New ideas and initiative are encouraged. We also strive to be alert for new methods and procedures that might assist us in accomplishing our objectives. There are no bad ideas.

(d) **Teamwork:**



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## Clovis Police Department Policy Manual

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1. Teamwork is mandatory. Every major success in an organization happens as a result of people working together and supporting each other. The elements of a successful team are selflessness, trust, communication, and cooperation. We will constantly work to maintain an organizational climate that supports and insists on teamwork at all levels. As an organization, we are also members of other, broader teams. We strive to maintain excellent relationships with all other groups and to have a reputation of being helpful and easy to work with.
- (e) Communication:
1. Information is a resource for interaction and accomplishment. We cannot be an effective team or meet our responsibilities and expectations without communicating constantly throughout the department. There is no "chain of command" for information. We will encourage communication up, down, across, and diagonally throughout the organization. We cannot give each other too much information.

# Policy Manual

## **106.1 PURPOSE AND SCOPE**

The manual of the Clovis Police Department is hereby established and shall be referred to as the Policy Manual or the manual. The manual is a statement of the current policies, procedures, rules, and guidelines of this department. All members are to conform to the provisions of this manual.

All prior and existing manuals, orders and regulations that are in conflict with this manual are rescinded, except to the extent that portions of existing manuals, procedures, orders and other regulations that have not been included herein shall remain in effect, provided that they do not conflict with the provisions of this manual.

Except where otherwise expressly stated, the provisions of this manual shall be considered as guidelines. It is recognized, however, that police work is not always predictable and circumstances may arise which warrant departure from these guidelines. It is the intent of this manual to be viewed from an objective standard, taking into consideration the sound discretion entrusted to members of this department under the circumstances reasonably available at the time of any incident.

### **106.1.1 DISCLAIMER**

The provisions contained in this Policy Manual are not intended to create an employment contract, nor any employment rights or entitlements. The policies contained within this manual are for the internal use of the Clovis Police Department and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the City, its officials or employees. Violations of any provision of any policy contained within this manual shall only form the basis for departmental administrative action, training or discipline. The Clovis Police Department reserves the right to revise any policy content, in whole or in part.

## **106.2 POLICY**

Except where otherwise expressly stated, the provisions of this manual shall be considered as guidelines. It is recognized that the work of law enforcement is not always predictable and circumstances may arise which warrant departure from these guidelines. It is the intent of this manual to be viewed from an objective standard, taking into consideration the sound discretion entrusted to members of this department under the circumstances reasonably available at the time of any incident.

## **106.3 AUTHORITY**

The Chief of Police shall be considered the ultimate authority for the content and adoption of the provisions of this manual and shall ensure compliance with all applicable federal, state and local laws. The Chief of Police or the authorized designee is authorized to issue Departmental Directives, which shall modify those provisions of the manual to which they pertain. Departmental Directives shall remain in effect until such time as they may be permanently incorporated into the manual.

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**106.4 DEFINITIONS**

The following words and terms shall have these assigned meanings throughout the Policy Manual, unless it is apparent from the content that they have a different meaning:

**Adult** - Any person 18 years of age or older.

**CCR** - California Code of Regulations (Example: 15 CCR 1151).

**CHP** - The California Highway Patrol.

**CFR** - Code of Federal Regulations.

**City** - The City of Clovis.

**Non-sworn** - Employees and volunteers who are not sworn peace officers.

**Department/CPD** - The Clovis Police Department.

**DMV** - The Department of Motor Vehicles.

**Employee** - Any person employed by the Department.

**Juvenile** - Any person under the age of 18 years.

**Manual** - The Clovis Police Department Policy Manual.

**May** - Indicates a permissive, discretionary or conditional action.

**Member** - Any person employed or appointed by the Clovis Police Department, including:

- Full- and part-time employees
- Sworn peace officers
- Reserve, auxiliary officers
- Non-sworn employees
- Volunteers.

**Officer** - Those employees, regardless of rank, who are sworn peace officers of the Clovis Police Department.

**On-duty** - A member's status during the period when he/she is actually engaged in the performance of his/her assigned duties.

**Order** - A written or verbal instruction issued by a superior.

**POST** - The California Commission on Peace Officer Standards and Training.

**Rank** - The title of the classification held by an officer.

**Shall or will** - Indicates a mandatory action.

**Should** - Indicates a generally required or expected action, absent a rational basis for failing to conform.

# Clovis Police Department

## Clovis Police Department Policy Manual

### *Policy Manual*

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**Supervisor** - A person in a position of authority that may include responsibility for hiring, transfer, suspension, promotion, discharge, assignment, reward or discipline of other department members, directing the work of other members or having the authority to adjust grievances. The supervisory exercise of authority may not be merely routine or clerical in nature but requires the use of Independent judgment.

The term "supervisor" may also include any person (e.g., officer-in-charge, lead or senior worker) given responsibility for the direction of the work of others without regard to a formal job title, rank or compensation.

When there is only one department member on-duty, that person may also be the supervisor, except when circumstances reasonably require the notification or involvement of the member's off-duty supervisor or an on-call supervisor.

**USC** - United States Code.

#### **106.5 ISSUING THE POLICY MANUAL**

An electronic version of the Policy Manual will be made available to all members on the department network for viewing and printing. No changes shall be made to the manual without authorization from the Chief of Police or the authorized designee.

Each member shall acknowledge that he/she has been provided access to, and has had the opportunity to review the Policy Manual and Departmental Directives. Members shall seek clarification as needed from an appropriate supervisor for any provisions that they do not fully understand.

#### **106.6 PERIODIC REVIEW OF THE POLICY MANUAL**

The Chief of Police will ensure that the Policy Manual is periodically reviewed and updated as necessary.

#### **106.7 REVISIONS TO POLICIES**

All revisions to the Policy Manual will be provided to each member on or before the date the policy becomes effective. Each member will be required to acknowledge that he/she has reviewed the revisions and shall seek clarification from an appropriate supervisor as needed.

Members are responsible for keeping abreast of all Policy Manual revisions.

Each Division Commander will ensure that members under his/her command are aware of any Policy Manual revision.

All department members suggesting revision of the contents of the Policy Manual shall forward their written suggestions to their Division Commanders, who will consider the recommendations and forward them to the command staff as appropriate.

## **Chapter 2 - Organization and Administration**

## **Organizational Structure and Responsibility**

### **200.1 PURPOSE AND SCOPE**

The organizational structure of this department is designed to create an efficient means to accomplish our mission and goals and to provide for the best possible service to the public.

### **200.2 DIVISIONS**

The Chief of Police is responsible for administering and managing the Clovis Police Department. There are five divisions in the Police Department as follows:

- **Administrative**
- **Support Services**
- **Enforcement**
- **Investigations**
- **Family and Community Services**

#### **200.2.1 ADMINISTRATIVE DIVISION**

The Administrative Division is commanded by a Captain, whose primary responsibility is to provide general management direction and control for that division. The Administrative Division consists of Technology, Homeland Security, Personnel/Hiring, Chaplains, Citizen Volunteer Program, and Grants.

#### **200.2.2 SUPPORT SERVICES DIVISION**

The Support Services Division is commanded by a Captain, whose primary responsibility is to provide general management direction and control for that division. The Support Services Division consists of Records, Property/Evidence, Homeland Defense and Grants.

#### **200.2.3 ENFORCEMENT DIVISION**

The Patrol Division is commanded by a Captain, whose primary responsibility is to provide general management direction and control for that Division. The Patrol Division consists of Uniformed Patrol, Community Service Officers and Special Operations, which includes Traffic Patrol and Communications.

#### **200.2.4 INVESTIGATIONS DIVISION**

The Investigations Division is commanded by a Captain, whose primary responsibility is to provide general management direction and control for that Division. The Investigation Division consists of General Investigations, Narcotics Unit, Gang Response Team, Crime Analysis Unit, Forensic Services, and Internal Affairs.

#### **200.2.5 FAMILY AND COMMUNITY SERVICES DIVISION**

The Family and Community Services Division is commanded by a Police Services Manager, whose primary responsibility is to provide general management direction and control for that

# Clovis Police Department

## Clovis Police Department Policy Manual

### *Organizational Structure and Responsibility*

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division. The Family and Community Services Division consists of Animal Services and Youth Services. Animal Services Includes Animal Control Operations and Animal Adoptions. Youth Services includes Diversion, Juvenile Work Program, Graffiti Abatement, and Social Work Services.

# Incidents Requiring Notification to the Chief of Police

## 201.1 PURPOSE AND SCOPE

The question frequently arises as to what incidents and/or emergencies should be brought to the attention of the Chief of Police. The Chief of Police shall be notified, whether he/she be at home or in the office should any of the following incidents/emergencies occur. If the Chief is not available, continuous effort should be made until he/she does receive notification:

- (a) Whenever a Clovis Police Officer is injured to the extent it is necessary to consult a doctor.
- (b) Whenever a homicide or an assault with a deadly weapon involving a critical injury occurs in the City of Clovis.
- (c) Any case where a dangerous criminal is at large in the City of Clovis or adjacent thereto, particularly by virtue of escape or evasion during a pursuit.
- (d) Any event where we request mutual aid from an outside agency.
- (e) Any incident where an outside agency requests mutual aid of an emergency nature from our department.
- (f) In the event there is a major disturbance or reports indicate that there might be a major disturbance.
- (g) Any fatal traffic collision or any traffic collision where death is likely to occur.
- (h) An injury traffic accident involving a Clovis police vehicle.
- (i) An incident of a sensitive nature involving a City official or a City employee.
- (j) Any major incident in other jurisdictions nearby that may impact our city; i.e. riot at CSU Fresno.
- (k) A Clovis police officer involved in a shooting anywhere, on or off duty.
- (l) Any felony crime involving the discharge of a firearm.
- (m) Any man-made or nature disaster that has occurred or has the immediate possibility of occurring.
- (n) Any matter of an unusual or uncommon nature that is likely to attract wide public interest.



## Departmental Directive

### 204.1 PURPOSE AND SCOPE

Departmental Directives establish an interdepartmental communication that may be used by the Chief of Police to make immediate changes to policy and procedure consistent with the current Memorandum of Understanding and as permitted by Government Code § 3500 et seq. Departmental Directives will immediately modify or change and supersede sections of this manual to which they pertain.

#### 204.1.1 DEPARTMENTAL DIRECTIVE PROTOCOL

Departmental Directives will be incorporated into the manual as required upon approval of Staff. Departmental Directives will modify existing policies or create a new policy as appropriate and will be rescinded upon incorporation into the manual.

All existing Departmental Directives have now been incorporated in the updated Policy Manual as of the below revision date.

Any Departmental Directives issued after publication of the manual shall be numbered consecutively starting with the last two digits of the year, followed by the number "01". For example, 10-01 signifies the first Departmental Directive for the year 2010.

### 204.2 RESPONSIBILITIES

#### 204.2.1 STAFF

The staff shall review and approve revisions of the Policy Manual, which will incorporate changes originally made by a Departmental Directive.

#### 204.2.2 CHIEF OF POLICE

The Chief of Police shall issue all Departmental Directives.

## **Emergency Management Plan**

### **206.1 PURPOSE AND SCOPE**

The City has prepared an Emergency Operations Plan for use by all employees in the event of a major disaster or other emergency event. The plan provides for a strategic response by all employees and assigns specific responsibilities in the event that the plan is activated (Government Code § 8610).

### **206.2 ACTIVATING THE EMERGENCY PLAN**

The Emergency Operations Plan can be activated on the order of the official designated by local ordinance.

#### **206.2.1 RECALL OF PERSONNEL**

In the event that the Emergency Management Plan is activated, all employees of the Clovis Police Department are subject to immediate recall. Employees may also be subject to recall during extraordinary circumstances as deemed necessary by the Chief of Police or the authorized designee.

Failure to promptly respond to an order to report for duty may result in discipline.

### **206.3 LOCATION OF THE PLAN**

The Emergency Operations Plan is available electronically in Police Pub Clovis-036 ("I" Drive - PolPub). All supervisors should familiarize themselves with the Emergency Operations Plan. The Administration supervisor should ensure that department personnel are familiar with the roles police personnel will play when the plan is implemented.

## Training Policy

### **208.1 PURPOSE AND SCOPE**

It is the policy of this department to administer a training program that will provide for the professional growth and continued development of its personnel. By doing so, the Department will ensure its personnel possess the knowledge and skills necessary to provide a professional level of service that meets the needs of the community.

### **208.2 PHILOSOPHY**

The Department seeks to provide ongoing training and encourages all personnel to participate in advanced training and formal education on a continual basis. Training is provided within the confines of funding, requirements of a given assignment, staffing levels, and legal mandates. Whenever possible, the Department will use courses certified by the California Commission on Peace Officer Standards and Training (POST).

### **208.3 OBJECTIVES**

The objectives of the Training Program are to:

- (a) Enhance the level of law enforcement service to the public
- (b) Increase the technical expertise and overall effectiveness of our personnel
- (c) Provide for continued professional development of department personnel

### **208.4 TRAINING PLAN**

A training plan will be developed and maintained by the Training Coordinator. It is the responsibility of the Training Coordinator to maintain, review, and update the training plan on an annual basis. The plan will address the following areas:

(Agency-specific training areas)

### **208.5 TRAINING NEEDS ASSESSMENT**

The Training Unit will conduct an annual training-needs assessment of the Department. The needs assessment will be reviewed by staff. Upon approval by the staff, the needs assessment will form the basis for the training plan for the fiscal year.

## **Electronic Mail**

### **212.1 PURPOSE AND SCOPE**

The purpose of this policy is to establish guidelines for the proper use and application of the Department's electronic mail (email) system by employees of this department. Email is a communication tool available to employees to enhance efficiency in the performance of job duties and is to be used in accordance with generally accepted business practices and current law (e.g., California Public Records Act). Messages transmitted over the email system must only be those that involve official business activities or contain information essential to employees for the accomplishment of business-related tasks and/or communication directly related to the business, administration, or practices of the Department.

### **212.2 EMAIL RIGHT OF PRIVACY**

All email messages, including any attachments, that are transmitted over department networks are considered department records and therefore are department property. The Department reserves the right to access, audit or disclose, for any lawful reason, any message including any attachment that is transmitted over its email system or that is stored on any department system.

The email system is not a confidential system since all communications transmitted on, to or from the system are the property of the Department. Therefore, the email system is not appropriate for confidential communications. If a communication must be private, an alternative method to communicate the message should be used instead of email. Employees using the Department's email system shall have no expectation of privacy concerning communications utilizing the system.

Employees should not use personal accounts to exchange email or other information that is related to the official business of the Department.

### **212.3 PROHIBITED USE OF EMAIL**

Sending derogatory, defamatory, obscene, disrespectful, sexually suggestive and harassing or any other inappropriate messages on the email system is prohibited and may result in discipline.

Email messages addressed to the entire department are only to be used for official business related items that are of particular interest to all users and must be approved by the Chief of Police or a Division Commander. Personal advertisements are not acceptable.

It is a violation of this policy to transmit a message under another user's name. Users are strongly encouraged to log off the network when their computer is unattended. This added security measure would minimize the misuse of an individual's email, name and/or password by others.

### **212.4 MANAGEMENT OF E-MAIL**

Because the e-mail system is not designed for long-term retention of messages, e-mail that the employee desires to save or that becomes part of an official record should be printed and/or stored in another database. Users of e-mail are solely responsible for the management of their mailboxes.

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### *Electronic Mail*

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Messages should be purged manually by the user at least once per week. All messages in excess of one month will be deleted at regular intervals from the server computer.

## **Administrative Communications**

### **214.1 PURPOSE AND SCOPE**

Administrative communications of this department are governed by the following policies.

### **214.2 MEMORANDUMS**

Memorandums may be issued periodically by the Chief of Police to announce and document all promotions, transfers, hiring of new personnel, separations, personnel and group commendations, or other changes in status.

### **214.3 CORRESPONDENCE**

In order to ensure that the letterhead and name of the Department are not misused, all external correspondence shall be on Department letterhead. All Department letterhead shall bear the signature element of the Chief of Police. Personnel should use Department letterhead only for official business and with approval of their supervisor.

### **214.4 SURVEYS**

All surveys made in the name of the Department shall be authorized by the Chief of Police or a Division Commander.

## Retiree Concealed Firearms

### 220.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the issuance, denial, suspension or revocation of Clovis Police Department identification cards under the Law Enforcement Officers' Safety Act (LEOSA) and California law (18 USC § 926C; Penal Code § 25455).

### 220.2 POLICY

It is the policy of the Clovis Police Department to provide identification cards to qualified former or retired officers as provided in this policy.

### 220.3 LEOSA

The Chief of Police may issue an identification card for LEOSA purposes to any qualified former officer of this department who (18 USC § 926C(c)):

- (a) Separated from service in good standing from this department as an officer.
- (b) Before such separation, had regular employment as a law enforcement officer for an aggregate of 10 years or more or, if employed as a law enforcement officer for less than 10 years, separated from service after completing any applicable probationary period due to a service-connected disability as determined by this department.
- (c) Has not been disqualified for reasons related to mental health.
- (d) Has not entered into an agreement with this department where the officer acknowledges that he/she is not qualified to receive a firearm qualification certificate for reasons related to mental health.
- (e) Is not prohibited by federal law from receiving or possessing a firearm.

#### 220.3.1 INSPECTION OF FIREARMS

The firearm(s) the retiree intends to use shall be inspected by the department's Rangemaster/Armorer to insure they are in proper working order. There will be limit of two firearms that may be inspected.

- (a) If a firearm is not functional, the endorsement shall be withheld until the firearm is fixed and in proper working order.
- (b) The firearm's make, model, serial number, and caliber shall be recorded and maintained by the department's Rangemaster.
- (c) The firearm shall conform the department regulations concerning secondary weapons and off-duty weapons approved for carry.

#### 220.3.2 RANGE QUALIFICATIONS

The retired officer will first show that he/she knows the safety functions and proper handling of the firearm to the Rangemaster. Proper loading and safe unloading of the firearm will also be demonstrated. Ammunition will be provided by the Department. Targets used will be standard

### Retiree Concealed Firearms

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IPSC cardboard targets. The retired officer will then complete a standard course as specified by the Rangemaster.

Upon completion of the range qualification, the Rangemaster will complete a form that indicates "pass" or "fail" for the course of fire. The make, model, serial number, and caliber of the firearm used will also be documented on this form. The retiree will sign and date the form. The forms shall be maintained by the Chief's office. If the retiree fails to qualify he/she may schedule one re-qualification shoot with the Rangemaster.

#### 220.3.3 QUALIFICATION WHEN THE RETIRED OFFICER LIVES OUT OF THE AREA

In some cases, the retired officer may no longer live in the state of California. If the retiree lives outside of California, he/she may inquire with the local county or municipal law enforcement agency in which he/she currently resides as to that local agency's ability and willingness to provide the retiree with a Clovis Police Department approved qualification shoot.

If requested by the retiree, a copy of our qualification shoot will be made available to that agency's Rangemaster to facilitate the administration of the test. Approval for the administration of the qualification test by another agency and acceptance of the results of such test administered by another agency is at the sole discretion of the Chief of Police or his/her designee.

A department approved qualification letter will be sent to the testing agency and must be completed by the Rangemaster who administered the qualification and returned to the Clovis Police Department by mail.

Absent any prior agreement granted by the Chief of Police or his/her designee, the retiree must re-qualify with our department at a scheduled range qualification shoot, regardless of place of residence. **ANY COSTS OR FEES CHARGED OR BILLED BY ANOTHER LAW ENFORCEMENT AGENCY FOR THE ADMINISTRATION OR IMPLEMENTATION OF THE QUALIFICATION TEST ARE THE SOLE RESPONSIBILITY OF THE RETIREE.**

#### 220.3.4 LEOSA IDENTIFICATION CARD FORMAT

The LEOSA identification card should contain a photograph of the former officer and identify him/her as having been employed as an officer.

If the Clovis Police Department qualifies the former officer, the LEOSA identification card or separate certification should indicate the date the former officer was tested or otherwise found by the Department to meet the active duty standards for qualification to carry a firearm.

#### 220.3.5 AUTHORIZATION

Any qualified former law enforcement officer, including a former officer of this department, may carry a concealed firearm under 18 USC § 926C when he/she is:

- (a) In possession of photographic identification that identifies him/her as having been employed as a law enforcement officer, and one of the following:
  - 1. An indication from the person's former law enforcement agency that he/she has, within the past year, been tested or otherwise found by the law enforcement



# Clovis Police Department

## Clovis Police Department Policy Manual

### *Retiree Concealed Firearms*

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agency to meet agency-established active duty standards for qualification in firearms training to carry a firearm of the same type as the concealed firearm.

2. A certification, issued by either the state in which the person resides or by a certified firearms instructor who is qualified to conduct a firearms qualification test for active duty law enforcement officers within that state, indicating that the person has, within the past year, been tested or otherwise found to meet the standards established by the state or, if not applicable, the standards of any agency in that state.
- (b) Not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
- (c) Not prohibited by federal law from receiving a firearm.
- (d) Not in a location prohibited by California law or by a private person or entity on his/her property if such prohibition is permitted by California law.

#### **220.4 CALIFORNIA IDENTIFICATION CARD ISSUANCE**

Any full-time sworn officer of this department who was authorized to, and did, carry a concealed firearm during the course and scope of his/her employment shall be issued an identification card with a Carrying Concealed Weapon endorsement, "CCW Approved," upon honorable retirement (Penal Code § 25455).

- (a) For the purpose of this policy, honorably retired includes all peace officers who have qualified for, and accepted, a service or disability retirement. It shall not include any officer who retires in lieu of termination.
- (b) No CCW Approved endorsement shall be issued to any officer retiring because of a psychological disability (Penal Code § 26305).

##### **220.4.1 OUT OF STATE PEACE OFFICERS IN CALIFORNIA**

Pursuant to 18 USC 926B, any full time or retired out of state police officer is authorized to carry a concealed firearm in California subject to the following conditions:

- (a) The officer shall have in his/her possession a photographic identification from the issuing law enforcement agency which indicates that the officer has met the state's training and qualification standards within not less than one year prior to the date of issuance.
- (b) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
- (c) Out of state peace officers are not authorized to carry a concealed firearm into government buildings or areas otherwise expressly restricted by state or local law.

##### **220.4.2 CALIFORNIA IDENTIFICATION CARD FORMAT**

The identification card issued to any qualified and honorably retired officer shall be 2 inches by 3 inches, and minimally contain (Penal Code § 25460):

- (a) A photograph of the retiree.

### ***Retiree Concealed Firearms***

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- (b) The retiree's name and date of birth.
- (c) The date of retirement.
- (d) The name and address of this department.
- (e) A stamped CCW Approved endorsement along with the date by which the endorsement must be renewed (not more than one year). If a CCW endorsement has been denied or revoked, the identification card shall be stamped "No CCW Privilege."

#### **220.4.3 QUALIFIED RETIREES FROM INCORPORATED JURISDICTION**

The Clovis Police Department shall provide an Identification card with a CCW Approved endorsement to honorably retired peace officers from any jurisdiction that this department now serves under the following conditions (Penal Code § 25905):

- (a) The retiree's previous agency is no longer providing law enforcement services or the relevant government body is dissolved.
- (b) This department is in possession of the retiree's complete personnel record or can verify the retiree's honorably retired status.
- (c) The retiree is in compliance with all of the requirements of this department for the issuance of a CCW Approved endorsement.

#### **220.4.4 QUALIFIED RETIRED RESERVES**

Qualified retired reserve officers who meet the department requirements shall be provided an identification card with a CCW Approved endorsement (Penal Code § 26300).

### **220.5 FORMER OFFICER RESPONSIBILITIES**

A former officer with a card issued under this policy shall immediately notify the Watch Commander of his/her arrest or conviction in any jurisdiction, or that he/she is the subject of a court order, in accordance with the Reporting of Employee Convictions policy.

#### **220.5.1 RESPONSIBILITIES UNDER LEOSA**

In order to obtain or retain a LEOSA identification card, the former officer shall:

- (a) Sign a release and hold harmless agreement on a form approved by the City Attorney for all acts or omissions relating to carrying a concealed firearm and acknowledging that by signing the release and hold harmless agreement that they are personally responsible as a private citizen for their acts and omissions while carrying a concealed firearm as permitted by LEOSA and that their acts and/or omissions were not undertaken as an employee or former employee of the Department.

#### **220.5.2 MAINTAINING A CALIFORNIA IDENTIFICATION CARD CCW ENDORSEMENT**

In order to maintain a CCW Approved endorsement on an identification card issued under California law, the retired officer shall (Penal Code § 26305):

- (a) Qualify annually with the authorized firearm at a course approved by this department at the retired officer's expense.
- (b) Remain subject to all applicable department policies and federal, state and local laws.

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- (c) Not engage in conduct that compromises public safety.
- (d) Only be authorized to carry a concealed firearm inspected and approved by the Department.

**220.6 DENIAL, SUSPENSION OR REVOCATION OF A LEOSA IDENTIFICATION CARD**

A LEOSA identification card may be denied or revoked upon a showing of good cause as determined by the Department. In the event that an identification card is denied, suspended or revoked, the former officer may request a review by the Chief of Police. The decision of the Chief of Police is final.

**220.7 DENIAL, SUSPENSION OR REVOCATION OF A CALIFORNIA CCW ENDORSEMENT CARD**

A CCW endorsement under Penal Code § 25470 for any officer retired from this department may be denied or revoked only upon a showing of good cause. The CCW endorsement may be immediately and temporarily revoked by the Watch Commander when the conduct of a retired peace officer compromises public safety.

- (a) In the event that a CCW endorsement is initially denied, the retired officer shall have 15 days from the date of denial to request a formal hearing. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received.
- (b) Prior to revocation of any CCW endorsement, the Department shall provide the affected retiree with written notice of a hearing by either personal service or first class mail, postage prepaid, return receipt requested to the retiree's last known address (Penal Code § 26315).
  - 1. The retiree shall have 15 days from the date of service to file a written request for a hearing.
  - 2. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received (Penal Code § 26315).
  - 3. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right.
- (c) A hearing for the denial or revocation of any CCW endorsement shall be conducted before a hearing board composed of three members, one selected by the Department, one selected by the retiree or his/her employee organization and one selected jointly (Penal Code § 26320).
  - 1. The decision of such hearing board shall be binding on the Department and the retiree.
  - 2. Any retiree who waives the right to a hearing or whose CCW endorsement has been revoked at a hearing shall immediately surrender his/her identification card. The Department will then reissue a new identification card which shall be stamped "No CCW Privilege."

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- (d) Members who have reason to suspect the conduct of a retiree has compromised public safety shall notify the Watch Commander as soon as practicable. The Watch Commander should promptly take appropriate steps to look into the matter and, if warranted, contact the retiree in person and advise him/her of the temporary suspension and hearing information listed below.
  - 1. Notification of the temporary suspension should also be promptly mailed to the retiree via first class mail, postage prepaid, return receipt requested (Penal Code § 26312).
  - 2. The Watch Commander should document the investigation, the actions taken and, if applicable, any notification made to the retiree. The memo should be forwarded to the Chief of Police.
  - 3. The personal and written notification should be as follows:
    - (a) The retiree's CCW endorsement is immediately and temporarily suspended.
    - (b) The retiree has 15 days to request a hearing to determine whether the temporary suspension should become permanent revocation.
    - (c) The retiree will forfeit his/her right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15-day period.
  - 4. In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Watch Commander should attempt to make the above notice of temporary suspension through another law enforcement officer. For example, if a retiree was arrested or detained by a distant agency, the Watch Commander may request that a law enforcement officer from that agency act as the agent of the Department to deliver the written notification.

#### **220.8 FIREARM QUALIFICATIONS**

The Rangemaster may provide former officers from this department an opportunity to qualify. Written evidence of the qualification and the weapons used will be provided and will contain the date of the qualification. The Rangemaster will maintain a record of the qualifications and weapons used.

## **Chapter 3 - General Operations**

## Use of Force

### 300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

#### 300.1.1 DEFINITIONS

Definitions related to this policy include:

**Deadly force** - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

**Force** - The application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.

### 300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

#### 300.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

### 300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably

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appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

### **300.3.1 USE OF FORCE TO EFFECT AN ARREST**

Any peace officer may use reasonable force to effect an arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape or to overcome resistance (Penal Code § 835a).

### **300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE**

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of drugs or alcohol.
- (e) Subject's mental state or capacity.
- (f) Proximity of weapons or dangerous improvised devices.
- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (h) The availability of other options and their possible effectiveness.

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- (i) Seriousness of the suspected offense or reason for contact with the individual.
- (j) Training and experience of the officer.
- (k) Potential for injury to officers, suspects and others.
- (l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- (m) The risk and reasonably foreseeable consequences of escape.
- (n) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (p) Prior contacts with the subject or awareness of any propensity for violence.
- (q) Any other exigent circumstances.

### **300.3.3 PAIN COMPLIANCE TECHNIQUES**

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the officer.
- (c) Whether the person has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

### **300.3.4 CAROTID CONTROL HOLD**

The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is subject to the following:

- (a) The officer shall have successfully completed department-approved training in the use and application of the carotid control hold.
- (b) The carotid control hold may only be used when circumstances perceived by the officer at the time indicate that such application reasonably appears necessary to control a person in any of the following circumstances:
  - 1. The subject is violent or physically resisting.



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2. The subject, by words or actions, has demonstrated an intention to be violent and reasonably appears to have the potential to harm officers, him/herself or others.
- (c) The application of a carotid control hold on the following individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective, or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of applying a carotid control hold:
  1. Females who are known to be pregnant
  2. Elderly individuals
  3. Obvious juveniles
  4. Individuals who appear to have Down syndrome or who appear to have obvious neck deformities or malformations, or visible neck injuries
- (d) Any individual who has had the carotid control hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until examined by paramedics or other appropriate medical personnel.
- (e) The officer shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the subject lost consciousness as a result.
- (f) Any officer attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.
- (g) The use or attempted use of the carotid control hold shall be thoroughly documented by the officer in any related reports.

### **300.3.5 USE OF FORCE TO SEIZE EVIDENCE**

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the Clovis Police Department for this specific purpose.

### **300.4 DEADLY FORCE APPLICATIONS**

Use of deadly force is justified in the following circumstances:

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.

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- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An Imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.
2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

### **300.4.1 SHOOTING AT OR FROM MOVING VEHICLES**

Shots fired at or from a moving vehicle are rarely effective. Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

### **300.5 REPORTING THE USE OF FORCE**

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure or law.

#### **300.5.1 NOTIFICATION TO SUPERVISORS**

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.

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- (d) The individual indicates intent to pursue litigation.
- (e) Any application of a TASER device or control device.
- (f) Any application of a restraint device other than handcuffs, shackles or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges any of the above has occurred.

### **300.5.2 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE**

Statistical data regarding all officer-involved shootings and incidents involving use of force resulting in serious bodily injury is to be reported to the California Department of Justice as required by Government Code § 12525.2. See the Records and Public Services policy.

### **300.6 MEDICAL CONSIDERATION**

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

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**300.7 SUPERVISOR RESPONSIBILITY**

When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her *Miranda* rights, the following shall apply:
  - 1. The content of the interview should not be summarized or included in any related criminal charges.
  - 2. The fact that a recorded interview was conducted should be documented in a property or other report.
  - 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the subject may pursue civil litigation.
  - 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.
- (i) Complete a Use of Force Report Form AB71 for all instances where an officer is involved in the following:
  - (a) An incident that involves the shooting of a civilian by a peace officer.
  - (b) An incident that involves the shooting of a peace officer by a civilian.
  - (c) An incident in which the use of force by a peace officer against a civilian results in serious bodily injury or death.

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- (d) An incident in which the use of force by a civilian against a peace officer results in serious bodily injury or death.

**Shooting is defined as the following:** This includes any discharge of a firearm during an interaction between a civilian and an officer, regardless of whether any person was injured. A firearm is defined as a weapon which fires a shot by the force of an explosion, e.g., all handguns, rifles, shotguns, and other such devices commonly referred to as firearms. Notable exceptions to this category are electronic control devices, stun guns, BB, Pellet, air, gaspowered guns, or weapons that discharge rubber bullets or bean bags.

**Serious Bodily Injury is defined as the following:** Government Code section 12525.2(d) defines serious bodily injury as "a bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member or organ." "Serious bodily injury" is more severe than mere physical injury. Per California Criminal Law Jury Instruction 925, physical injuries that are considered serious may include (but are not limited to) loss of consciousness, wounds requiring extensive suturing, bone fractures or concussions. In the majority of cases, such an injury should not, however, mean that one must seek or require medical treatment at a hospital (e.g., a person experiences a loss of consciousness or because the injury is such that it is not immediately apparent that hospital care is necessary). Under those or similar circumstances, agencies must still report the use of force incident upon discovering that it resulted in serious bodily injury.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

### **300.7.1 WATCH COMMANDER RESPONSIBILITY**

The Watch Commander shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

### **300.8 USE OF FORCE ANALYSIS**

At least annually, the Patrol Division Commander or his/her designee should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.

## Use of Force Review Boards

### 302.1 PURPOSE AND SCOPE

This policy establishes a process for the Clovis Police Department to review the use of force by its employees.

This review process shall be in addition to any other review or investigation that may be conducted by any outside or multi-agency entity having jurisdiction over the investigation or evaluation of the use of deadly force.

### 302.2 POLICY

The Clovis Police Department will objectively evaluate the use of force by its members to ensure that their authority is used lawfully, appropriately and is consistent with training and policy.

### 302.3 REMOVAL FROM LINE DUTY ASSIGNMENT

Generally, whenever an employee's actions or use of force in an official capacity, or while using department equipment, results in death or very serious injury to another, that employee will be placed in a temporary administrative assignment pending an administrative review. The Chief of Police may exercise discretion and choose not to place an employee in an administrative assignment in any case.

### 302.4 REVIEW BOARD

The Use of Force Review Board will be convened when the use of force by a member results in very serious injury or death to another.

The Use of Force Review Board will also investigate and review the circumstances surrounding every discharge of a firearm, whether the employee was on- or off-duty, excluding training or recreational use.

The Chief of Police may request the Use of Force Review Board to investigate the circumstances surrounding any use of force incident.

The Administration Division Commander will convene the Use of Force Review Board as necessary. It will be the responsibility of the Division Commander or supervisor of the involved employee to notify the Administration Division Commander of any incidents requiring board review. The involved employee's Division Commander or supervisor will also ensure that all relevant reports, documents and materials are available for consideration and review by the board.

#### 302.4.1 COMPOSITION OF THE BOARD

The Administration Division Commander should select five Use of Force Review Board members from the following, as appropriate:

- Representatives of each division
- Commanding officer in the involved member's chain of command

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- Training Coordinator
- Non-administrative supervisor
- A peer officer
- A sworn peace officer from an outside law enforcement agency
- Department instructor for the type of weapon, device or technique used

The senior ranking command representative who is not in the same division as the involved employee will serve as chairperson.

#### **302.4.2 RESPONSIBILITIES OF THE BOARD**

The Use of Force Review Board is empowered to conduct an administrative review and inquiry into the circumstances of an incident.

The board members may request further investigation, request reports be submitted for the board's review, call persons to present information and request the involved employee to appear. The involved employee will be notified of the meeting of the board and may choose to have a representative through all phases of the review process.

The board does not have the authority to recommend discipline.

The Chief of Police will determine whether the board should delay its review until after completion of any criminal investigation, review by any prosecutorial body, filing of criminal charges, the decision not to file criminal charges, or any other action. The board should be provided all relevant available material from these proceedings for its consideration.

Absent an express waiver from the employee, no more than two members of the board may ask questions of the involved employee (Government Code § 3303). Other members may provide questions to these members.

The review shall be based upon those facts which were reasonably believed or known by the officer at the time of the incident, applying any legal requirements, department policies, procedures and approved training to those facts. Facts later discovered but unknown to the officer at the time shall neither justify nor call into question an officer's decision regarding the use of force.

Any questioning of the involved employee conducted by the board will be in accordance with the department's disciplinary procedures, the Personnel Complaints Policy, the current collective bargaining agreement and any applicable state or federal law.

The board shall make one of the following recommended findings:

- (a) The employee's actions were within department policy and procedure.
- (b) The employee's actions were in violation of department policy and procedure.

A recommended finding requires a majority vote of the board. The board may also recommend additional investigations or reviews, such as disciplinary investigations, training reviews to

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consider whether training should be developed or revised, and policy reviews, as may be appropriate. The board chairperson will submit the written recommendation to the Chief of Police.

The Chief of Police shall review the recommendation, make a final determination as to whether the employee's actions were within policy and procedure and will determine whether any additional actions, investigations or reviews are appropriate. The Chief of Police's final findings will be forwarded to the involved employee's Division Commander for review and appropriate action. If the Chief of Police concludes that discipline should be considered, a disciplinary process will be initiated.

At the conclusion of any additional reviews, copies of all relevant reports and information will be filed with the Chief of Police.



## Handcuffing and Restraints

### 306.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of handcuffs and other restraints during detentions and arrests.

### 306.2 POLICY

The Clovis Police Department authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy and department training. Restraint devices shall not be used to punish, to display authority or as a show of force.

### 306.3 USE OF RESTRAINTS

Only members who have successfully completed Clovis Police Department-approved training on the use of restraint devices described in this policy are authorized to use these devices.

When deciding whether to use any restraint, officers should carefully balance officer safety concerns with factors that include, but are not limited to:

- The circumstances or crime leading to the arrest.
- The demeanor and behavior of the arrested person.
- The age and health of the person.
- Whether the person is known to be pregnant.
- Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes.
- Whether the person has any other apparent disability.

#### 306.3.1 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain an individual who may, after brief investigation, be released without arrest. Unless arrested, the use of restraints on detainees should continue only for as long as is reasonably necessary to assure the safety of officers and others. When deciding whether to remove restraints from a detainee, officers should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee.

#### 306.3.2 RESTRAINT OF PREGNANT PERSONS

Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety and in no event shall these persons be restrained by the use of leg irons, waist chains or handcuffs behind the body.

No person who is in labor, delivery or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized

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determination that such restraints are necessary for the safety of the arrestee, officers or others (Penal Code § 3407; Penal Code § 6030).

### **306.3.3 RESTRAINT OF JUVENILES**

A juvenile under 14 years of age should not be restrained unless he/she is suspected of a dangerous felony or when the officer has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the officer or damage property.

### **306.3.4 NOTIFICATIONS**

Whenever an officer transports a person with the use of restraints other than handcuffs, the officer shall inform the jail staff upon arrival at the jail that restraints were used. This notification should include information regarding any other circumstances the officer reasonably believes would be potential safety concerns or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during transportation to the jail.

### **306.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS**

Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person's hands to ensure officer safety.

Although recommended for most arrest situations, handcuffing is discretionary and not an absolute requirement of the Department. Officers should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, officers should not conclude that in order to avoid risk every person should be handcuffed, regardless of the circumstances.

In most situations handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs should be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists.

In situations where one pair of handcuffs does not appear sufficient to restrain the individual or may cause unreasonable discomfort due to the person's size, officers should consider alternatives, such as using an additional set of handcuffs or multiple plastic cuffs.

Handcuffs should be removed as soon as it is reasonable or after the person has been searched and is safely confined within a detention facility.

### **306.5 APPLICATION OF SPIT HOODS/MASKS/SOCKS**

Spit hoods/masks/socks are temporary protective devices designed to prevent the wearer from biting and/or transferring or transmitting fluids (saliva and mucous) to others.

Spit hoods may be placed upon persons in custody when the officer reasonably believes the person will bite or spit, either on a person or in an inappropriate place. They are generally used during application of a physical restraint, while the person is restrained, or during or after transport.

Officers utilizing spit hoods should ensure that the spit hood is fastened properly to allow for adequate ventilation and that the restrained person can breathe normally. Officers should provide assistance during the movement of restrained individuals due to the potential for impaired or

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distorted vision on the part of the individual. Officers should avoid comingling individuals wearing spit hoods with other detainees.

Spit hoods should not be used in situations where the restrained person is bleeding profusely from the area around the mouth or nose, or if there are indications that the person has a medical condition, such as difficulty breathing or vomiting. In such cases, prompt medical care should be obtained. If the person vomits while wearing a spit hood, the spit hood should be promptly removed and discarded. Persons who have been sprayed with oleoresin capicum (OC) spray should be thoroughly decontaminated including hair, head and clothing prior to application of a spit hood.

Those who have been placed in a spit hood should be continually monitored and shall not be left unattended until the spit hood is removed. Spit hoods shall be discarded after each use.

#### **306.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES**

Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg irons and other similar devices. Auxiliary restraint devices are intended for use during long-term restraint or transportation. They provide additional security and safety without impeding breathing, while permitting adequate movement, comfort and mobility.

Only department-authorized devices may be used. Any person in auxiliary restraints should be monitored as reasonably appears necessary.

#### **306.7 APPLICATION OF LEG RESTRAINT DEVICES**

Leg restraints may be used to restrain the legs of a violent or potentially violent person when it is reasonable to do so during the course of detention, arrest or transportation. Only restraint devices approved by the Department shall be used.

In determining whether to use the leg restraint, officers should consider:

- (a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a suspect.
- (b) Whether it is reasonably necessary to protect the suspect from his/her own actions (e.g., hitting his/her head against the interior of the patrol unit, running away from the arresting officer while handcuffed, kicking at objects or officers).
- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol unit).

##### **306.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS**

When applying leg restraints the following guidelines should be followed:

- (a) If practicable, officers should notify a supervisor of the intent to apply the leg restraint device. In all cases, a supervisor shall be notified as soon as practicable after the application of the leg restraint device.

### *Handcuffing and Restraints*

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- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.
- (c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.
- (d) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain on his/her stomach.
- (e) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.
- (f) When transported by ambulance/paramedic unit, the restrained person should be accompanied by an officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

#### **306.8 REQUIRED DOCUMENTATION**

If an individual is arrested, the use of restraints other than handcuffs shall be documented in the related report. The officer should include, as appropriate:

- (a) The amount of time the suspect was restrained.
- (b) How the suspect was transported and the position of the suspect.
- (c) Observations of the suspect's behavior and any signs of physiological problems.
- (d) Any known or suspected drug use or other medical problems.

#### **306.9 RESTRAINT CHAIR**

Restraint chairs are self-contained restraint systems that place the suspect in a seated position and restrict movement of multiple points on the body. Restraint chairs may or may not be used in conjunction with handcuffs or flex-tie cuffs based on the type of resistance offered by the suspect.

Suspects may be left in a restraint chair while in the Clovis Police Department Booking Facility if they pose an increased risk of injury to or assault on police department employees, other prisoners, citizens, or themselves. Typically, suspects posing such a risk will be evaluated for transport to Fresno County Jail, however, when conditions dictate that such transport is not appropriate or feasible at the time, such suspects may be restrained in a restraint chair.

A restraint chair may additionally be used to facilitate compulsory blood draws where the suspect has demonstrated a likelihood to physically resist the drawing of blood.

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Suspects may not be left in a restraint chair for a period longer than two (2) hours. During the two hours the subject is in the chair, the person should be offered hydration.

Suspects placed in a restraint chair shall not be placed in a cell with other arrestees. They may be placed in a cell by themselves pending transfer or release.

## **Control Devices and Techniques**

### **308.1 PURPOSE AND SCOPE**

This policy provides guidelines for the use and maintenance of control devices that are described in this policy.

### **308.2 POLICY**

In order to control subjects who are violent or who demonstrate the intent to be violent, the Clovis Police Department authorizes officers to use control devices in accordance with the guidelines in this policy and the Use of Force Policy.

### **308.3 ISSUING, CARRYING AND USING CONTROL DEVICES**

Control devices described in this policy may be carried and used by members of this department only if the device has been issued by the Department or approved by the Chief of Police or the authorized designee.

Only officers who have successfully completed department-approved training in the use of any control device are authorized to carry and use the device.

Control devices may be used when a decision has been made to control, restrain or arrest a subject who is violent or who demonstrates the intent to be violent, and the use of the device appears reasonable under the circumstances. When reasonable, a verbal warning and opportunity to comply should precede the use of these devices.

When using control devices, officers should carefully consider potential impact areas in order to minimize injuries and unintentional targets.

### **308.4 RESPONSIBILITIES**

#### **308.4.1 WATCH COMMANDER RESPONSIBILITIES**

The Watch Commander may authorize the use of a control device by selected personnel or members of specialized units who have successfully completed the required training.

#### **308.4.2 RANGEMASTER RESPONSIBILITIES**

The Rangemaster shall control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.

Every control device will be periodically inspected by the Rangemaster or the designated instructor for a particular control device. The inspection shall be documented.

#### **308.4.3 USER RESPONSIBILITIES**

All normal maintenance, charging or cleaning shall remain the responsibility of personnel using the various devices.

### *Control Devices and Techniques*

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Any damaged, inoperative, outdated or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the Rangemaster for disposition. Damage to City property forms shall also be prepared and forwarded through the chain of command, when appropriate, explaining the cause of damage.

#### **308.5 BATON GUIDELINES**

The need to immediately control a suspect must be weighed against the risk of causing serious injury. The head, neck, throat, spine, heart, kidneys and groin should not be intentionally targeted except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

When carrying a baton, uniformed personnel shall carry the baton in its authorized holder on the equipment belt. Plainclothes and non-field personnel may carry the baton as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.

#### **308.6 TEAR GAS GUIDELINES**

Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Watch Commander, Incident Commander or Crisis Response Unit Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.

When practicable, fire personnel should be alerted or summoned to the scene prior to the deployment of tear gas to control any fires and to assist in providing medical aid or gas evacuation if needed.

#### **308.7 OLEORESIN CAPSICUM (OC) GUIDELINES**

As with other control devices, oleoresin capsicum (OC) spray and pepper projectiles may be considered for use to bring under control an individual or groups of individuals who are engaging in, or are about to engage in violent behavior. Pepper projectiles and OC spray should not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public.

##### **308.7.1 OC SPRAY**

Uniformed personnel carrying OC spray shall carry the device in its holster on the equipment belt. Plainclothes and non-field personnel may carry OC spray as authorized, in accordance with the needs of their assignment or at the direction of their supervisor.

##### **308.7.2 PEPPER PROJECTILE SYSTEMS**

Pepper projectiles are plastic spheres that are filled with a derivative of OC powder. Because the compressed gas launcher delivers the projectiles with enough force to burst the projectiles on impact and release the OC powder, the potential exists for the projectiles to inflict injury if they strike the head, neck, spine or groin. Therefore, personnel using a pepper projectile system should not intentionally target those areas, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

## ***Control Devices and Techniques***

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Officers encountering a situation that warrants the use of a pepper projectile system shall notify a supervisor as soon as practicable. A supervisor shall respond to all pepper projectile system incidents where the suspect has been hit or exposed to the chemical agent. The supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.

Each deployment of a pepper projectile system shall be documented. This includes situations where the launcher was directed toward the suspect, whether or not the launcher was used. Unintentional discharges shall be promptly reported to a supervisor and documented on the appropriate report form. Only non-incident use of a pepper projectile system, such as training and product demonstrations, is exempt from the reporting requirement.

### **308.7.3 TREATMENT FOR OC SPRAY EXPOSURE**

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with clean water to cleanse the affected areas. Those persons who complain of further severe effects shall be examined by appropriate medical personnel.

### **308.8 POST-APPLICATION NOTICE**

Whenever tear gas or OC has been introduced into a residence, building interior, vehicle or other enclosed area, officers should provide the owners or available occupants with notice of the possible presence of residue that could result in irritation or injury if the area is not properly cleaned. Such notice should include advisement that clean up will be at the owner's expense. Information regarding the method of notice and the individuals notified should be included in related reports.

### **308.9 KINETIC ENERGY PROJECTILE GUIDELINES**

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

#### **308.9.1 DEPLOYMENT AND USE**

Only department-approved kinetic energy munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option.

Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officer determines that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

Circumstances appropriate for deployment include, but are not limited to, situations in which:

- (a) The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- (b) The suspect has made credible threats to harm him/herself or others.



### ***Control Devices and Techniques***

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- (c) The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.
- (d) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

#### **308.9.2 DEPLOYMENT CONSIDERATIONS**

Before discharging projectiles, the officer should consider such factors as:

- (a) Distance and angle to target.
- (b) Type of munitions employed.
- (c) Type and thickness of subject's clothing.
- (d) The subject's proximity to others.
- (e) The location of the subject.
- (f) Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

A verbal warning of the intended use of the device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according to manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

#### **308.9.3 SAFETY PROCEDURES**

Shotguns specifically designated for use with kinetic energy projectiles will be specially marked in a manner that makes them readily identifiable as such.

Officers will inspect the shotgun and projectiles at the beginning of each shift to ensure that the shotgun is in proper working order and the projectiles are of the approved type and appear to be free from defects.

#### **308.10 TRAINING FOR CONTROL DEVICES**

The Training Coordinator shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

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- (a) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.
- (b) All training and proficiency for control devices will be documented in the officer's training file.
- (c) Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

**308.11 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES**

Any application of a control device or technique listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

## Conducted Energy Device

### 309.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of TASER devices.

### 309.2 POLICY

The TASER® device is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to officers and suspects.

### 309.3 ISSUANCE AND CARRYING TASER DEVICES

Only members who have successfully completed department-approved training may be issued and carry the TASER device.

TASER devices are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department's inventory.

Officers shall only use the TASER device and cartridges that have been issued by the Department. Uniformed officers who have been issued the TASER device shall wear the device in an approved holster on their person. Non-uniformed officers may secure the TASER device in the driver's compartment of their vehicle.

Members carrying the TASER device should perform a spark test on the unit prior to every shift.

When carried while in uniform officers shall carry the TASER device in a weak-side holster on the side opposite the duty weapon.

- (a) All TASER devices shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (b) Whenever practicable, officers should carry two or more cartridges on their person when carrying the TASER device.
- (c) Officers shall be responsible for ensuring that their issued TASER device is properly maintained and in good working order.
- (d) Officers should not hold both a firearm and the TASER device at the same time.

### 309.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the TASER device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other officers and individuals with a warning that the TASER device may be deployed.

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If, after a verbal warning, an individual is unwilling to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required to, display the electrical arc (provided that a cartridge has not been loaded into the device), or the laser in a further attempt to gain compliance prior to the application of the TASER device. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the TASER device in the related report.

### **309.5 USE OF THE TASER DEVICE**

The TASER device has limitations and restrictions requiring consideration before its use. The TASER device should only be used when its operator can safely approach the subject within the operational range of the device. Although the TASER device is generally effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options.

#### **309.5.1 APPLICATION OF THE TASER DEVICE**

The TASER device may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

- (a) The subject is violent or is physically resisting.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.

Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the TASER device to apprehend an individual.

#### **309.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS**

The use of the TASER device on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

- (a) Individuals who are known to be pregnant.
- (b) Elderly individuals or obvious juveniles.
- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.

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- (e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capicum (OC) spray.
- (f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

Because the application of the TASER device in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode generally should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

The TASER device shall not be used to psychologically torment, elicit statements or to punish any individual.

#### **309.5.3 TARGETING CONSIDERATIONS**

Reasonable efforts should be made to target lower center mass and avoid the head, neck, chest and groin. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the TASER device probes to a precise target area, officers should monitor the condition of the subject. If one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

#### **309.5.4 MULTIPLE APPLICATIONS OF THE TASER DEVICE**

Officers should apply the TASER device for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Multiple applications of the TASER device against a single individual are generally not recommended and should be avoided unless the officer reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple applications.

If the first application of the TASER device appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional applications of the TASER device, including:

- (a) Whether the probes are making proper contact.
- (b) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (c) Whether verbal commands, other options or tactics may be more effective.

Officers should generally not intentionally apply more than one TASER device at a time against a single subject.

#### **309.5.5 ACTIONS FOLLOWING DEPLOYMENTS**

Officers shall notify a supervisor of all TASER device discharges. Confetti tags should be collected and the expended cartridge, along with both probes and wire, should be submitted into evidence.

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The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

#### **309.5.6 DANGEROUS ANIMALS**

The TASER device may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

#### **309.5.7 OFF-DUTY CONSIDERATIONS**

Officers are not authorized to carry department TASER devices while off-duty.

Officers shall ensure that TASER devices are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

#### **309.6 DOCUMENTATION**

Officers shall document all TASER device discharges in the related arrest/crime report and the TASER device report form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, laser activation and arcing the device will also be documented on the report form.

##### **309.6.1 TASER DEVICE FORM**

Items that shall be included in the TASER device report form are:

- (a) The type and brand of TASER device and cartridge and cartridge serial number.
- (b) Date, time and location of the incident.
- (c) Whether any display, laser or arc deterred a subject and gained compliance.
- (d) The number of TASER device activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.
- (e) The range at which the TASER device was used.
- (f) The type of mode used (probe or drive-stun).
- (g) Location of any probe impact.
- (h) Location of contact in drive-stun mode.
- (i) Description of where missed probes went.
- (j) Whether medical care was provided to the subject.
- (k) Whether the subject sustained any injuries.
- (l) Whether any officers sustained any injuries.

The Training Coordinator should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Training Coordinator should also conduct audits of data

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downloads and reconcile TASER device report forms with recorded activations. TASER device information and statistics, with identifying information removed, should periodically be made available to the public.

#### **309.6.2 REPORTS**

The officer should include the following in the arrest/crime report:

- (a) Identification of all personnel firing TASER devices
- (b) Identification of all witnesses
- (c) Medical care provided to the subject
- (d) Observations of the subject's physical and physiological actions
- (e) Any known or suspected drug use, intoxication or other medical problems

#### **309.7 MEDICAL TREATMENT**

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel should remove TASER device probes from a person's body. Used TASER device probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by TASER device probes or who have been subjected to the electric discharge of the device shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

- (a) The person is suspected of being under the influence of controlled substances and/or alcohol.
- (b) The person may be pregnant.
- (c) The person reasonably appears to be in need of medical attention.
- (d) The TASER device probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).
- (e) The person requests medical treatment.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the TASER device.

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### **309.8 SUPERVISOR RESPONSIBILITIES**

When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the TASER device may be used. A supervisor should respond to all incidents where the TASER device was activated.

A supervisor should review each incident where a person has been exposed to an activation of the TASER device. The device's onboard memory should be downloaded through the data port by a supervisor or Rangemaster and saved with the related arrest/crime report. Photographs of probe sites should be taken and witnesses interviewed.

### **309.9 TRAINING**

Personnel who are authorized to carry the TASER device shall be permitted to do so only after successfully completing the initial department-approved training. Any personnel who have not carried the TASER device as a part of their assignment for a period of six months or more shall be recertified by a department-approved TASER device instructor prior to again carrying or using the device.

Proficiency training for personnel who have been issued TASER devices should occur every year. A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Training Coordinator. All training and proficiency for TASER devices will be documented in the officer's training file.

Command staff, supervisors and investigators should receive TASER device training as appropriate for the investigations they conduct and review.

Officers who do not carry TASER devices should receive training that is sufficient to familiarize them with the device and with working with officers who use the device.

The Training Coordinator is responsible for ensuring that all members who carry TASER devices have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of TASER devices during training could result in injury to personnel and should not be mandatory for certification.

The Training Coordinator should ensure that all training includes:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.
- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.
- (e) Handcuffing a subject during the application of the TASER device and transitioning to other force options.



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- (f) De-escalation techniques.
- (g) Restraint techniques that do not impair respiration following the application of the TASER device.

## Officer-Involved Shooting

### 310.1 PURPOSE AND SCOPE

The intent of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured as the result of a police shooting and to ensure that such incidents be investigated in a fair and impartial manner.

### 310.2 TYPES OF INVESTIGATIONS

Officer-involved shootings involve several separate investigations. The investigations may include:

- (a) A criminal investigation of the incident by the agency having jurisdiction where the incident occurred. This department may relinquish its criminal investigation to an outside agency with the approval of the Chief of Police or a Division Commander
- (b) A criminal investigation of the involved officer(s) conducted by an outside agency
- (c) A civil investigation to determine potential liability conducted by the involved officer's agency
- (d) An administrative investigation conducted by the involved officer's agency, to determine if there were any violations of department policy

### 310.3 JURISDICTION

Jurisdiction is determined by the location of the shooting and the agency employing the involved officer(s). The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings:

#### 310.3.1 CLOVIS POLICE DEPARTMENT OFFICER WITHIN THIS JURISDICTION

The Clovis Police Department is responsible for the criminal investigation of the suspect's actions, the criminal investigation of the officer-involved shooting, the civil investigation, and the administrative investigation. The Clovis Police Department will notify the Fresno County District Attorney's Office OIS (Officer-Involved Shooting) Callout Team.

#### 310.3.2 ALLIED AGENCY'S OFFICER WITHIN THIS JURISDICTION

The Clovis Police Department is responsible for the criminal investigation of the suspect's actions. The criminal investigation of the officer-involved shooting will be conducted by the Clovis Police Department or District Attorney's Office. The officer's employing agency will be responsible for any civil and/or administrative investigation(s).

#### 310.3.3 CLOVIS POLICE DEPARTMENT OFFICER/DEPUTY IN ANOTHER JURISDICTION

The agency where the incident occurred has criminal jurisdiction and is responsible for the criminal investigation of the incident. That agency may relinquish its criminal investigation of the suspect(s)

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## Officer-Involved Shooting

to another agency. The Clovis Police Department will conduct timely civil and/or administrative investigations.

### 310.3.4 INVESTIGATION RESPONSIBILITY MATRIX

The following table identifies the possible scenarios and responsibilities for the investigation of officer-involved shootings:

	<b>Criminal Investigation of Suspect(s)</b>	<b>Criminal Investigation of Officer(s)</b>	<b>Civil Investigation</b>	<b>Administrative Investigation</b>
<b>CPD Officer in This Jurisdiction</b>	CPD Investigators	CPD Investigators with DA's Office	CPD Investigators with City's Attorney	Designated CPD Supervisor/ Investigator
<b>Allied Agency's Officer in This Jurisdiction</b>	CPD Investigators	CPD Investigators with DA's Office	Involved Officer's Department	Involved Officer's Department
<b>CPD Officer in Another Jurisdiction</b>	Agency where incident occurred	Decision made by agency where incident occurred	CPD Investigators with City's Attorney	Designated CPD Supervisor/ Investigator

### 310.4 THE INVESTIGATION PROCESS

The following procedures are guidelines used in the investigation of an officer-involved shooting.

#### 310.4.1 DUTIES OF INITIAL ON SCENE SUPERVISOR

Upon arrival at the scene of an officer-involved shooting, the first uninvolved supervisor should:

- (a) Take all reasonable steps to obtain emergency medical attention for all apparently injured individuals.
- (b) Protect the scene. Utilize all resources available to protect the scene, cordon off the area and limit access.
- (c) Attempt to obtain a brief overview of the situation from any non-shooter officer(s).
  1. In the event that there are no non-shooter officers, the supervisor should attempt to obtain a brief voluntary overview from one shooter officer.
- (d) If necessary, the supervisor may administratively order any officer from this department to immediately provide public safety information necessary to secure the scene and pursue suspects.
  1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of shots fired, parameters of the incident scene, identity of known witnesses and similar information.
- (e) Absent a voluntary statement from any officer(s), the initial on scene supervisor should not attempt to order any officer to provide other than public safety information.

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- (f) Provide all available Information to the Watch Commander and Communications. If feasible, sensitive information should be communicated over secure networks.
- (g) Take command of and secure the incident scene with additional personnel until relieved by a detective supervisor or other assigned personnel.
- (h) As soon as practical, shooter officers should respond or be transported (separately, if feasible) to the station, or other location at the discretion of the investigators, for further direction.
  - 1. Each Involved officer should be given an administrative order not to discuss the incident with other involved officers pending further direction from a supervisor.
  - 2. When an officer's weapon is taken or left at the scene (e.g., evidence), the officer will be provided with a comparable replacement weapon. Every effort will be made to ensure an officer involved in a shooting will not be left for any period of time without a weapon.

#### **310.4.2 WATCH COMMANDER DUTIES**

Upon learning of an officer-involved shooting, the Watch Commander shall be responsible for coordinating all aspects of the incident until relieved by the Chief of Police or a Division Commander.

#### **310.4.3 NOTIFICATIONS**

The following person(s) shall be notified as soon as practical:

- Chief of Police
- Investigation Division Commander
- District Attorney OIS Callout Team
- Internal Affairs Unit supervisor
- Psychological/Peer support personnel
- Coroner (if necessary)
- Officer representative (If requested)

All outside inquiries about the incident shall be directed to the Watch Commander.

#### **310.4.4 MEDIA RELATIONS**

A single press release shall be prepared with input and concurrence from the supervisor and agency representative responsible for each phase of the investigation. This release will be available to the Watch Commander, Investigation Division Commander and Public Information Officer in the event of inquiries from the media.

It will be the policy of this department to not release the identities of involved officers absent their consent or as required by law. Moreover, no involved officer shall be subjected to contact from

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the media (Government Code § 3303(e)) and no involved officer shall make any comments to the press unless authorized by the Chief of Police or a Division Commander.

Law enforcement officials receiving inquiries regarding incidents occurring in other agency jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

### **310.4.5 INVOLVED OFFICERS**

Once involved officer(s) have arrived at the station, the Watch Commander should admonish each officer that the incident shall not be discussed except with authorized personnel or representatives. The following shall be considered for the involved officer:

- (a) Any request for legal representation will be accommodated
- (b) Discussions with licensed attorneys will be considered privileged as attorney client communications
- (c) Discussions with departmental (e.g., association) representatives will be privileged only as to the discussion of non-criminal information (Government Code § 3303(i))
- (d) A psychotherapist shall be provided by the Department to each involved officer, or any officer upon request
  - 1. Interviews with a licensed psychotherapist will be considered privileged and will not be disclosed except to the extent that the officer is or is not fit for return to duty.

Care should be taken to preserve the integrity of any physical evidence present on the officer, equipment or clothing (e.g., blood, fingerprints, etc.) until investigators or lab personnel can properly retrieve it.

Detectives shall make reasonable accommodations to the officer's physical and emotional needs (Government Code § 3303(d)).

Each involved officer shall be given reasonable paid administrative leave following an officer-involved shooting and it shall be the responsibility of the Watch Commander to make schedule adjustments to accommodate such leave.

## **310.5 THE SHOOTING INCIDENT CRIMINAL INVESTIGATION**

### **310.5.1 DETECTIVE PERSONNEL**

Once notified of an officer-involved shooting, it shall be the responsibility of the Investigation Unit supervisor to assign appropriate detective personnel to handle the investigation of related crimes or the O.I.S. Detectives will be assigned to work with investigators from the District Attorney's Office and may be assigned to separately handle the investigation of any related crimes not being investigated by the District Attorney's Office.

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All related departmental reports except administrative and/or privileged reports will be forwarded to the designated detective supervisor for approval. Privileged reports shall be maintained exclusively by those personnel authorized such access. Administrative reports will be forwarded to the appropriate Division Commander.

#### **310.5.2 CRIMINAL INVESTIGATION**

It shall be the policy of this department to utilize the District Attorney's Office to conduct an independent criminal investigation into the circumstances of any officer-involved shooting involving injury or death.

If available, detective personnel from this department may be assigned to "partner" with investigators from the District Attorney's Office so as to not duplicate efforts in related criminal investigations.

Once public safety issues have been addressed, criminal investigators will be given the next opportunity to interview involved officers in order to provide them with an opportunity to give a voluntary statement. The following shall be considered for the involved officer:

- (a) Supervisors and Internal Affairs Unit personnel should not participate directly in any voluntary interview of officers. This will not prohibit such personnel from monitoring such interviews or indirectly providing areas for inquiry
- (b) If requested, any involved officer will be afforded the opportunity to consult with a representative of his or her choosing or an attorney, prior to speaking with criminal investigators
- (c) Any voluntary statement provided by the officer(s) will be made available for inclusion in the administrative or other related investigations
- (d) Absent consent from the involved officer or as required by law, no administratively coerced statement(s) will be provided to any criminal investigators

#### **310.5.3 REPORTS BY INVOLVED OFFICERS**

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals (Government Code § 3304(a)).

While the involved officer may write the report, it is generally recommended that such reports be completed by assigned investigators who should interview involved officers as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities by involved suspects. Care should be taken not to duplicate information provided by involved officers in other reports.

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Reports related to the prosecution of criminal suspects will be processed according to normal procedures, but should also be included for reference in the investigation of the officer-involved shooting.

#### **310.5.4 WITNESS IDENTIFICATION AND INTERVIEWS**

Because potential witnesses to an officer-involved shooting or death may become unavailable or the integrity of their statements compromised with the passage of time, a supervisor should take reasonable steps to promptly coordinate with criminal investigators to utilize available personnel for the following:

- (a) Identification of all persons present at the scene and in the immediate area.
  - 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
  - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the Department.
  - 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- (c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

#### **310.6 ADMINISTRATIVE INVESTIGATION**

In addition to all other investigations associated with an officer-involved shooting, this department will conduct an internal administrative investigation to determine conformance with department policy. This investigation will be conducted under the supervision and direction of an assigned Supervisor, and will be considered a confidential peace officer personnel file.

Any officer involved in a shooting may be administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.

- (a) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.

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1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his or her prior statement before proceeding with any subsequent interview(s) (Government Code § 3303(g))
- (b) In the event that an involved officer has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
  1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer(s) physical and psychological needs have been addressed before commencing the interview.
  2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview (Government Code § 3303(i))
  3. Administrative interview(s) should be recorded by the investigator (the officer may also record the interview) (Government Code § 3303(g))
  4. The officer shall be informed of all constitutional "Miranda" rights (Government Code § 3303(h)) and, assuming no voluntary waiver, will then be given an administrative order to provide full and truthful answers to all questions (Government Code § 3303(e)). The officer shall be informed, however, that the interview will be for administrative purposes only and that the statement cannot be used criminally (The Lybarger or Garrity admonishment).
  5. The administrative interview shall be considered part of the officer's confidential personnel file.
  6. The assigned Supervisor/investigator(s) shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
  7. The completed administrative investigation shall be submitted to the Use of Deadly Force Review Board, which will restrict its findings as to whether there was compliance with the Department use of deadly force policy .
  8. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

**310.6.1 CIVIL LIABILITY RESPONSE**

A member of this department may be assigned to work exclusively under the direction of the legal counsel for the Department to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.



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All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The civil liability response is not intended to interfere with any other investigation, but shall be given reasonable access to all other investigations.

#### **310.7 AUDIO AND VIDEO RECORDINGS**

Any officer involved in an incident may be permitted to review available Mobile Audio Video (MAV) or other video or audio recordings prior to providing a recorded statement or completing reports.

Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted to review available MAV or other video or audio recordings with approval of assigned investigators or a supervisor.

Any MAV and other known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the District Attorney or City Attorney's Office as appropriate.

## Firearms

### 312.1 PURPOSE AND SCOPE

This policy establishes procedures for the acquisition, use, and documentation of training in the use of firearms. The Chief of Police or his or her designee shall approve all Department firearms before they are acquired and utilized by any member of this department.

### 312.2 AUTHORIZED WEAPONS

No firearms will be carried that have not been inspected by the Range Master. Except in an emergency, or as directed by a supervisor, no firearm shall be carried by a member who has not qualified with that weapon with a Department Range Master at an approved range qualification/training. The following weapons are approved for use by officers of this department:

#### 312.2.1 DUTY WEAPONS

Authorized Weapons:

- (a) Handgun - Glock Model 22 - .40 SW.
- (b) Shotgun - Remington Model 870 and 1187 in 12 gauge.
- (c) Patrol Rifles - Styer Aug, M-16, AR-15, M-4 variant produced by a reputable manufacturer in .223 caliber, Sig Sauer MCX 300 Backout Caliber.
- (d) Sniper Rifle - Approved reputable manufacturer in .308 caliber.
- (e) Select Fire Submachine Gun - HK MP-5 in 9mm.

Alternate Duty Handguns:

The following additional handguns are approved for on-duty, non-patrol use:

- (a) Glock Model 23- .40 Caliber
- (b) Glock Model 27- .40 Caliber.
- (c) Glock Model 43- 9mm Caliber.
- (d) Glock Model 42- .380 Caliber.

The Clovis Police Department recognizes that under special circumstances the use of an alternate duty handgun (other than a Glock Model 22, 23, or 27; the authorized duty handgun) may be necessary based upon the assignment or duty of an officer or detective. This may be due to a need for a more concealable handgun, but other reasons may exist. The Division Commander may authorize the use of an alternate duty handgun under these special circumstances. The following

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is a listing of the guidelines for the approval and use of an alternate duty handgun. **When in Class A, B, or C uniform, only the authorized Glock Model 22 handgun will be carried.**

- (a) The use of an alternate weapon is only allowed only for non-patrol duty such as detectives, narcotics, gang enforcement unit, and administrative assignments.
- (b) The alternate weapon will be of good quality and workmanship (e.g. Colt, Smith and Wesson, Sig Sauer, Ruger etc.) and will be in good working condition.
- (c) The weapon may be approved at the discretion of the Department Range Master. The Range Master may inspect the handgun at any time and the handgun shall be presented for inspection if requested by the Department.
- (d) The weapon shall be between .380 and .45 caliber inclusive. The weapon shall be a revolver or semi-automatic and shall be concealable.
- (e) The Division Commander shall approve the use of an alternate duty handgun before it is put into use.
- (f) The officer or detective shall qualify with the alternate weapon in a manner consistent with qualification of the authorized duty handgun. This is a level of proficiency that includes marksmanship, operation, and gun handling. The Range Master will have full discretion to determine this level of proficiency.
- (g) The officer or detective will qualify with this handgun regularly at Department range qualifications and range trainings in addition to qualification with the authorized duty handgun (Glock Model 22).
- (h) Ammunition for the alternate duty handgun will be provided by the Department.
- (i) The weapon shall be concealable and shall be carried in a manner that prevents accidental cocking, discharge, loss of physical control, or release of a safety if so equipped. The Department may check this at any time and the officer or detective shall present the handgun and method of carry (holster, purse, pack etc.) at the request of the Department.
- (j) A full description of the handgun including the serial number shall be kept on file with the Department Range Master.
- (k) The officer or detective shall carry at least two magazines, speed loaders or loading strips etc. while on duty.

#### 312.2.2 AUTHORIZED SECONDARY WEAPONS

A secondary weapon is described as a backup handgun to the primary duty handgun.

Officers desiring to carry a secondary weapon are subject to the following restrictions:

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- (a) The weapon shall be of good quality and workmanship manufactured by a reputable company (e.g., Colt, Smith & Wesson, Browning, Sig-Sauer, etc.) The weapon shall be between .380 and .45 caliber inclusive.
- (b) Only one secondary weapon may be carried at a time.
- (c) The purchase of the weapon and ammunition shall be the responsibility of the officer.
- (d) The weapon shall be carried concealed at all times and in such a manner as to prevent accidental cocking, discharge, or loss of physical control.
- (e) The weapon shall be subject to inspection by a supervisor or by Range staff whenever deemed necessary.
- (f) Ammunition shall be the same as Department issue. If the caliber of the weapon is other than Department issue, the Range staff shall approve ammunition.
- (g) Personnel shall qualify with the secondary weapon under range staff supervision. Officers must demonstrate their proficiency, safe handling and the serviceability of the weapon.
- (h) Personnel shall provide written notice of the make, model, color, serial number, and caliber of a second weapon to the Range Master who will then forward that to the office of the Chief of Police for final approval.
- (i) The Range Master will maintain a record of the make, model serial number and caliber of secondary weapons.
- (j) It shall be the responsibility of the officer to qualify with the secondary weapon and maintain qualification from that point forward as long as the officer carries that weapon. Qualification shall be done **at least once per year**.

#### 312.2.3 AUTHORIZED OFF-DUTY WEAPONS

The carrying of firearms by sworn officers while off duty is permitted by the Chief of Police, but may be rescinded should circumstances dictate (e.g., administrative leave). Sworn officers who choose to carry a firearm while off duty will be required to meet the following guidelines:

- (a) The weapon shall be of good quality and workmanship (e.g., Colt, Smith & Wesson, Browning, Sig-Sauer, etc.).
- (b) The weapon shall be between a .380 and .45 caliber inclusive. The weapon shall be a revolver, or semi-automatic, and concealable.
- (c) The purchase of the weapon and ammunition shall be the responsibility of the officer.
- (d) The weapon shall be carried concealed at all times and in such a manner as to prevent accidental cocking, discharge, or loss of physical control.

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- (e) It will be the responsibility of the officer to submit the weapon to a Rangemaster for inspection prior to being carried off-duty. The Rangemaster shall assure that the officer is proficient in handling and firing that weapon and that it will be carried in a safe manner. The weapon shall be subject to inspection whenever deemed necessary by a supervisor or Range staff. It shall be the responsibility of the officer to qualify with the weapon prior to it being carried and maintain qualification from that point forward as long as the officer carries that weapon. Qualification shall be done **at least once per year**.
- (f) A complete description of the weapon(s) shall be contained on the qualification record approved by the Rangemaster.
- (g) If any member desires to own more than one weapon utilized while off duty, he/she may do so, as long as the officer meets all the requirements set forth in this policy for each weapon used.
- (h) Ammunition should be of good quality and manufactured by a departmentally approved company as suggested by the Rangemaster.
- (i) When armed while off duty, officers shall at minimum carry their department identification.

### **312.2.4 AMMUNITION**

Officers shall carry only department-authorized ammunition. At minimum officers shall be issued fresh duty ammunition in the specified quantity for all department issued firearms once each year. Officers carrying personally owned authorized firearms of a caliber differing from department issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above at their own expense. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Range Master when needed in accordance with established policy.

### **312.2.5 ALCOHOL AND DRUGS**

Weapons shall not be carried by any officer who has consumed an amount of an alcoholic beverage or taken any drug that would tend to adversely affect the officer's senses or judgment.

### **312.2.6 LASER SIGHTS**

Laser sights may only be installed on a weapon carried on or off-duty after they have been examined and approved by the Rangemaster.

- (a) Any approved laser sight shall only be installed in strict accordance with manufacturer specifications.
- (b) Once approved laser sights have been properly installed on any weapon, the officer shall qualify with the weapon to ensure proper functionality and sighting of the weapon prior to carrying it.

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- (c) Except in an approved training situation, an officer may only activate a laser sight when the officer would otherwise be justified in pointing a weapon at an individual or other authorized target.
- (d) The use of a laser sight does not negate the marksmanship skills and safe weapons handling as taught by Range Staff.

**312.2.7 INITIAL WEAPONS TRAINING**

Sworn personnel and professional staff carrying Department issued weapons shall successfully complete an instructional course approved by the Chief of Police to demonstrate their proficiency in use and safe handling of that weapon.

Officers shall not carry a patrol rifle unless they have successfully completed departmental training. This training shall consist of an initial 40-hour patrol rifle user's course and qualification score with a certified patrol rifle instructor.

**312.2.8 DUTY READY**

All department issued weapons will be loaded as follows:

- (a) Department Issued handgun: "all magazines" (minimum of 3 for patrol and 2 for plainclothes assignments) will be fully loaded. The pistol will have one round in the chamber.
- (b) Department issued shotgun: "the magazine tube" will be loaded with five rounds of duty 00 buck shot and no round in the chamber. The shotgun will be de-cocked, and the safety will be off. The side carrier will be loaded with two duty 00 buck shot and four duty rifled slugs.
- (c) The duty issued rifle will be loaded with a magazine with a number of rounds two less than the capacity of the magazine. There will be no round in the chamber and the rifle will be de-cocked and the safety off. At least 2 additional magazines loaded in the same manner described above shall be kept readily accessible to the officer.

Any officer assigned a rifle and who has successfully completed the 40 hour basic patrol rifle course shall carry the patrol rifle in their patrol vehicle during their assigned shift.

**312.3 SAFE HANDLING OF FIREARMS**

The intent of this policy is to promote proper firearm safety on and off duty. Employees shall maintain the highest level of safety when handling firearms and shall consider the following:

**312.3.1 SAFETY CONSIDERATIONS**

- (a) Officers shall not unnecessarily display or handle any firearm.

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- (b) Officers shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Rangemaster.
- (c) Officers shall not clean, repair, load or unload a firearm anywhere in the Department, except where clearing barrels are present, typically in the department armory.
- (d) Shotguns or rifles removed from vehicles or the equipment storage room shall be loaded and unloaded in the parking lot and outside of the vehicle, in a safe, rangemaster approved manner.
- (e) Officers shall not place or store any firearm or other weapon on Department premises except where the place of storage is locked. No one shall carry firearms into the jail section or any part thereof when securing or processing a prisoner, but shall place all firearms in a secured location. It shall be the responsibility of the releasing officer to make sure that persons from outside agencies do not enter the jail section with any firearm.
- (f) Officers shall not use any automatic weapon, heavy caliber rifle, gas or other type of chemical weapon from the armory, except with approval of a supervisor.
- (g) Any weapon authorized by the department to be carried on- or off-duty, that is found by the officer to be malfunctioning or needing service, shall not be carried. It shall be promptly presented to the department or Rangemaster for inspection. Any weapon determined to be in need of service or repair during an inspection by the department Rangemaster, will be immediately removed from service. If the weapon is the officer's primary duty weapon, a replacement weapon will be issued to the officer until the duty weapon is serviceable.

#### 312.3.2 STORAGE AT HOME

Members shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access (Penal Code § 25100).

Members shall not permit department-issued firearms to be handled by anyone who is not authorized by the Department to do so.

Members shall be aware that negligent storage of a firearm could result in civil and criminal liability (Penal Code § 25100).

#### 312.3.3 STORAGE OF FIREARMS IN VEHICLES

##### Unmarked Units

- (a) If the vehicle is left at a private residence, it must be parked in a locked, secured garage. In this instance, weapons may be left in the vehicle.

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- (b) If the vehicle is not secured in a garage, the vehicle must be emptied of all weapons including handguns, rifles, and specialty weapons (i.e., MP-5 submachine gun, less lethal shotgun, personalized shotgun). Those weapons must then be legally and safely stored in the residence or within the police department building.
- (c) If the vehicle is left in the secured police department parking lot while the officer is off duty, the vehicle must be emptied of all weapons, and those weapons are to be stored safely in the police department (i.e., in the officer's locker or the armory).

### Marked Patrol Units

- (a) If an officer is required to park his/her vehicle at their residence while off duty and keep the vehicle visible to the public as stated under the rules of the take home vehicle program, then the officer shall remove all weapons from the vehicle including handguns, rifles, less lethal shotguns and specialty weapons and store them legally and safely in the residence.
  - 1. **Exception:** The department issued shotgun for that vehicle may be left in the vehicle. If left in the vehicle, the shotgun must be locked in the rack, the vehicle must be locked, and the keys to the shotgun rack must not be left in the rack.
- (b) If the marked patrol vehicle is left in the secured police department parking lot while the officer is off duty; all pistols, carbines, MP -5's and other guns/rifles must be removed and safely stored in the police department in the officer's locker or the armory. It is recommended that the officer's shotgun also be removed from the patrol vehicle understanding that the officer is responsible for that assigned weapon. Shotguns will no longer be stored in the Watch Commander's closet. Instead, Officers will store their shotgun in the same manner as they store their assigned rifle (i.e. in the officer's locker or a legally approved method in the officer's residence.)
- (c) If any vehicle is to be taken to the city shop, Information Services, or anywhere else for service or repairs, it must be emptied of all weapons, including the assigned shotgun, prior to leaving the vehicle for the service or repairs. Weapons may be left in the vehicle if the officer is present while the work is being completed.
- (d) Lethal Shotguns and Rifles are the only weapons that are to be in the racks in the front passenger compartment of the patrol vehicle. All other weapons (less lethal shotguns, MP-5's etc) are to be kept in the trunk.
- (e) If the marked patrol vehicle is taken to an officer's residence outside of the City of Clovis per the take home vehicle program guidelines, it must be in a locked, secured garage. In this instance, weapons may be left in the vehicle in accordance with state law.



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If the officer drives a fleet vehicle, all weapons must be removed and properly stored at the end of his/her shift.

#### Handguns in Vehicles

- (a) When leaving a handgun in an unattended vehicle, members shall ensure that it is locked in the trunk, or in a locked container which is placed out of view, or in a locked container that is permanently affixed to the vehicle's interior and not in plain view (Penal Code § 16850; Penal Code § 25140; Penal Code § 25452). Officers are exempt from this requirement during circumstances requiring immediate aid or action in the course of official duties (Penal Code § 25140).

#### **312.4 FIREARMS QUALIFICATIONS**

All sworn personnel are required to qualify or train quarterly with their duty weapon on an approved range course. The Range Master shall keep accurate records of quarterly qualifications and training, repairs, and maintenance. In addition to regular qualification schedules, the Range Master shall be responsible for providing all sworn personnel with annual practical training designed to simulate field situations. At least annually, all personnel carrying a firearm will receive training on the department Use of Force policy and demonstrate their knowledge and understanding.

##### **312.4.1 NON QUALIFICATION**

If any officer is unable to qualify for any reason, including injury, illness, duty status, or scheduling conflict, that officer shall submit a memorandum to his or her immediate supervisor prior to the end of the work week.

Members who repeatedly fail to qualify will be relieved from field assignment and appropriate disciplinary action may follow.

Sworn and non-sworn personnel who fail to qualify on their first shooting attempt shall be provided remedial training until proficiency is demonstrated and will be subject to the following requirements:

- (a) Additional range assignments may be required until consistent weapon proficiency is demonstrated
- (b) Members shall be given credit for a range qualification after remedial training and a qualifying score is obtained
- (c) No range credit will be given for the following
  1. Unauthorized range make-up
  2. Failure to qualify after remedial training

##### **312.4.2 REQUALIFICATION FOR OFFICERS INVOLVED IN SHOOTINGS**

If any sworn or non-sworn personnel is involved in a shooting or discharge of a firearm, other than to dispatch an injured animal, that officer will be required to attend a shooting re-qualification

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prior to returning to full duty. The re-qualification will be completed with at least one member of the department range staff. The requalification will consist of, at minimum, a standard 30 round course of fire for the Department issued pistol and courses of fire for both the Department issued shotgun and rifle as deemed necessary by the Range Master. The course of fire may be modified at the judgment of the Range Master based upon the needs of the officer. The involved officer will be notified of the date, time and location of the requalification by the Range Master, or designated member of the range staff, and shall be required to attend at that time. The Range Master will report the passing or failure of the involved officer in memo form to the Chief of Police.

Officers on extended leave from the Department will be required to re-qualify with their issued firearms in the same manner as described above. Extended leave is described as being off regular duty for 60 days or longer. Extended leave may be due to illness or injury, pregnancy, administrative leave, leave of absence, military leave or for any other reason.

#### **312.5 WARNING AND OTHER SHOTS**

Generally, warning shots or shots fired for the purpose of summoning aid are discouraged and may not be discharged unless the officer reasonably believes that they appear necessary, effective and reasonably safe.

#### **312.6 FIREARMS TRAINING AND QUALIFICATIONS**

All members who carry a firearm while on-duty are required to successfully complete training quarterly with their duty firearms. In addition to quarterly training, all members will qualify at least annually with their duty firearms. Members will qualify with off-duty and secondary firearms at least one time per year. Training and qualifications must be on an approved range course.

At least annually, all members carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

##### **312.6.1 INJURED ANIMALS**

With the approval of a supervisor, an officer may euthanize an animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical (Penal Code § 597.1(e)). Injured animals (with the exception of dogs and cats) may only be euthanized after a reasonable search to locate the owner has been made (Penal Code § 597.1(b)). Injured dogs and cats found without their owners shall be taken to an appropriate veterinarian for determination of whether they should be treated or humanely destroyed.

#### **312.7 REPORT OF FIREARM DISCHARGE**

Except during training or recreational use, any member who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shooting Policy. If a firearm was discharged as a use of force, the involved member shall adhere to the additional reporting requirements set forth in the Use of Force Policy.

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In all other cases, written reports shall be made as follows:

- (a) If on-duty at the time of the incident, the member shall file a written report with his/her Division Commander or provide a recorded statement to Investigators prior to the end of shift, unless otherwise directed.
- (b) If off-duty at the time of the incident, a written report shall be submitted or recorded statement provided no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

#### **312.8 RANGEMASTER DUTIES**

The range will be under the exclusive control of the Rangemaster. All members attending will follow the directions of the Rangemaster. The Rangemaster will maintain a roster of all members attending the range and will submit the roster to the Training Coordinator after each range date. Failure of any officer to sign in and out with the Rangemaster may result in non-qualification.

The range shall remain operational and accessible to Department members during hours established by the Department.

The Rangemaster has the responsibility of making periodic inspection, at least once a year, of all duty weapons carried by officers of this department to verify proper operation. The Rangemaster has the authority to deem any privately owned weapon unfit for service. The officer will be responsible for all repairs to his or her personal weapon and it will not be returned to service until inspected by the Rangemaster.

In the event an officer fails to qualify after remedial training, the rangemaster will outline the circumstances including additional training given to the officer in a memo to the Chief of Police.

#### **312.9 FLYING WHILE ARMED**

The Transportation Security Administration (TSA) has imposed rules governing law enforcement officers flying armed on commercial aircraft. The following requirements apply to officers who intend to be armed while flying on a commercial air carrier or flights where screening is conducted (49 CFR 1544.219):

- (a) Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure, and must have a need to have the firearm accessible, as determined by the Department based on the law and published TSA rules.
- (b) Officers must carry their Clovis Police Department identification card, bearing the officer's name, a full-face photograph, identification number, the officer's signature and the signature of the Chief of Police or the official seal of the Department and must present this identification to airline officials when requested. The officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver license, passport).
- (c) The Clovis Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Clovis Police Department an NLETS message containing

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a unique alphanumeric identifier. The officer must present the message on the day of travel to airport personnel as authorization to travel while armed.

- (d) An official letter signed by the Chief of Police authorizing armed travel may also accompany the officer. The letter should outline the officer's need to fly armed, detail his/her itinerary, and include that the officer has completed the mandatory TSA training for a law enforcement officer flying while armed.
- (e) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by the department-appointed instructor.
- (f) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification should be accomplished by early check-in at the carrier's check-in counter.
- (g) Any officer flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.
- (h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officer must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.
- (i) Officers should try to resolve any problems associated with flying armed through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.
- (j) Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

#### 312.9.1 REPAIR OR MODIFICATIONS OF DUTY WEAPONS

The Rangemaster shall be the only person authorized to repair or modify any department-owned weapon. All repairs and/or modifications of department issued weapons not performed by the Rangemaster must be approved in writing by the Rangemaster and accomplished by a department approved gunsmith.

Any repairs or modifications to the officer's personally owned weapon shall be done at his or her expense and must be approved by the Rangemaster.

#### 312.10 CARRYING FIREARMS OUT OF STATE

Qualified, active, full-time officers of this department are authorized to carry a concealed firearm in all other states subject to the following conditions (18 USC § 926B):

- (a) The officer shall carry his/her Clovis Police Department identification card whenever carrying such firearm.
- (b) The officer is not the subject of any current disciplinary action.
- (c) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.

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- (d) The officer will remain subject to this and all other department policies (including qualifying and training).

Officers are cautioned that individual states may enact local regulations that permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property, or that prohibit or restrict the possession of firearms on any state or local government property, installation, building, base or park. Federal authority may not shield an officer from arrest and prosecution in such locally restricted areas.

Active law enforcement officers from other states are subject to all requirements set forth in 18 USC § 926B.

#### **312.11 CARRYING FIREARMS OUT OF STATE**

Qualified active full-time officers and qualified retired officers (see Policy Manual § 220) of this department are authorized to carry a concealed firearm in all other states subject to the following conditions (18 USC 926B and C):

- (a) The officer shall carry his/her Department identification card whenever carrying such weapon.
- (b) Qualified retired officers shall also carry certification of having met firearms qualification within the past 12 months.
- (c) The officer is not the subject of any current disciplinary action.
- (d) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
- (e) The officer will remain subject to this and all other Department policies (including qualifying and training).

Officers are cautioned that individual states may enact local regulations that permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property, or that prohibit or restrict the possession of firearms on any state or local government property, installation, building, base or park. Federal authority may not shield an officer from arrest and prosecution in such locally restricted areas.

Visiting active and retired peace officers from other states are subject to all requirements set forth in 18 USC 926B and C.

## Vehicle Pursuits

### 314.1 PURPOSE AND SCOPE

Vehicle pursuits expose innocent citizens, law enforcement officers and fleeing violators to the risk of serious injury or death. The primary purpose of this policy is to provide officers with guidance in balancing the safety of the public and themselves against law enforcement's duty to apprehend violators of the law. Another purpose of this policy is to reduce the potential for pursuit-related collisions. Vehicular pursuits require officers to exhibit a high degree of common sense and sound judgment. Officers must not forget that the immediate apprehension of a suspect is generally not more important than the safety of the public and pursuing officers.

Deciding whether to pursue a motor vehicle is a critical decision that must be made quickly and under difficult and unpredictable circumstances. In recognizing the potential risk to public safety created by vehicular pursuits, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a vehicular pursuit because of the risk involved. This includes circumstances where department policy would permit the initiation or continuation of the pursuit. It is recognized that vehicular pursuits are not always predictable and decisions made pursuant to this policy will be evaluated according to the totality of the circumstances reasonably available at the time of the pursuit.

Officers must remember that the most important factors to the successful conclusion of a pursuit are proper self-discipline and sound professional judgment. Officer's conduct during the course of a pursuit must be objectively reasonable; that is, what a reasonable officer would do under the circumstances. An unreasonable individual's desire to apprehend a fleeing suspect at all costs has no place in professional law enforcement.

#### 314.1.1 VEHICLE PURSUIT DEFINED

A vehicle pursuit is an event involving one or more law enforcement officers attempting to apprehend a suspect who is attempting to avoid arrest while operating a motor vehicle by using high speed driving, driving off a highway, turning suddenly, or other evasive tactics. Failing to Yield is driving in a legal manner but willfully failing to stop for the officer's solid red light.

### 314.2 OFFICER RESPONSIBILITIES

It shall be the policy of this department that a vehicle pursuit shall be conducted with a lighted red light and siren as required by Vehicle Code § 21055 for exemption from compliance with the rules of the road. The following policy is established to provide officers with guidelines for driving with due regard and caution for the safety of all persons using the highway as required by Vehicle Code § 21056.

#### 314.2.1 WHEN TO INITIATE A PURSUIT

Officers are authorized to initiate a pursuit when it is reasonable to believe that a suspect is attempting to evade arrest or detention by fleeing in a vehicle.

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The following factors individually and collectively shall be considered in deciding whether to initiate a pursuit:

- (a) Seriousness of the known or reasonably suspected crime and its relationship to community safety.
- (b) The importance of protecting the public and balancing the known or reasonably suspected offense and the apparent need for immediate capture against the risks to officers, innocent motorists and others.
- (c) Apparent nature of the fleeing suspects (e.g., whether the suspects represent a serious threat to public safety).
- (d) The identity of the suspects has been verified and there is comparatively minimal risk in allowing the suspects to be apprehended at a later time.
- (e) Safety of the public in the area of the pursuit, including the type of area, time of day, the amount of vehicular and pedestrian traffic and the speed of the pursuit relative to these factors.
- (f) Pursuing officers familiarity with the area of the pursuit, the quality of radio communications between the pursuing units and the dispatcher/supervisor and the driving capabilities of the pursuing officers under the conditions of the pursuit.
- (g) Weather, traffic and road conditions that substantially increase the danger of the pursuit beyond the worth of apprehending the suspect.
- (h) Performance capabilities of the vehicles used in the pursuit in relation to the speeds and other conditions of the pursuit.
- (i) Vehicle speeds.
- (j) Other persons in or on the pursued vehicle (e.g., passengers, co-offenders and hostages).
- (k) Availability of other resources such as helicopter assistance.
- (l) The police unit is carrying passengers other than police officers. Pursuits should not be undertaken with a prisoner in the police vehicle.

### **314.2.2 WHEN TO TERMINATE A PURSUIT**

Pursuits should be discontinued whenever the totality of objective circumstances known or which reasonably ought to be known to the officer or supervisor during the pursuit indicates that the present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the suspect's escape.

The factors listed in When to Initiate a Pursuit of this policy are expressly included herein and will apply equally to the decision to discontinue as well as the decision to initiate a pursuit. Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists and themselves when electing to continue a pursuit. In

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the context of this policy, the term "terminate" shall be construed to mean discontinue or to stop chasing the fleeing vehicle.

In addition to the factors listed in When to Initiate a Pursuit of this policy, the following factors should also be considered in deciding whether to terminate a pursuit:

- (a) Distance between the pursuing officers and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time and/or distance.
- (b) Pursued vehicle's location is no longer definitely known.
- (c) Officer's pursuit vehicle sustains any type of damage that renders it unsafe to drive.
- (d) Extended pursuits of violators for misdemeanors not involving violence or risk of serious harm (independent of the pursuit) are discouraged.
- (e) There are hazards to uninvolved bystanders or motorists.
- (f) If the identity of the offender is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit, officers should strongly consider discontinuing the pursuit and apprehending the offender at a later time.
- (g) Pursuit is terminated by a supervisor.

### **314.2.3 SPEED LIMITS**

The speed of a pursuit is a factor that should be evaluated on a continuing basis by the officer and supervisor. Evaluation of vehicle speeds shall take into consideration public safety, officer safety and the safety of the occupants of the fleeing vehicle.

Should high vehicle speeds be reached during a pursuit, officers and supervisors shall also consider these factors when determining the reasonableness of the speed of the pursuit:

- (a) Pursuit speeds have become unreasonably unsafe for the existing conditions.
- (b) Pursuit speeds have exceeded the driving ability of the officer.
- (c) Pursuit speeds are beyond the capabilities of the pursuit vehicle thus making its operation unsafe.

### **314.3 PURSUIT UNITS**

Pursuit units should be limited to three vehicles (two units and a supervisor); however, the number of units involved will vary with the circumstances. An officer or supervisor may request additional units to join a pursuit if, after assessing the factors outlined above, it appears that the number of officers involved would be insufficient to safely arrest the suspects. All other officers should stay out of the pursuit, but should remain alert to its progress and location. Any officer who drops out of a pursuit may then, if necessary, proceed to the termination point at legal speeds, following the appropriate rules of the road.



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#### 314.3.1 MOTORCYCLE OFFICERS

A distinctively marked patrol vehicle equipped with emergency lighting and siren should replace a police motorcycle as primary and/or secondary pursuit unit as soon as practical.

#### 314.3.2 VEHICLES WITHOUT EMERGENCY EQUIPMENT

Vehicles not equipped with red light and siren are generally prohibited from initiating or joining in any pursuit. Officers in such vehicles, however, may become involved in emergency activities involving serious crimes or life threatening situations. Those officers should terminate their involvement in any pursuit immediately upon arrival of a sufficient number of emergency police vehicles or any police helicopter. The exemptions provided by Vehicle Code § 21055 do not apply to officers using vehicles without emergency equipment.

#### 314.3.3 PRIMARY UNIT RESPONSIBILITIES

The initial pursuing unit will be designated as the primary pursuit unit and will be responsible for the conduct of the pursuit unless it is unable to remain reasonably close enough to the violator's vehicle. The primary responsibility of the officer initiating the pursuit is the apprehension of the suspects without unreasonable danger to him/herself or other persons.

Notify Communications that a vehicle pursuit has been initiated and as soon as practicable provide information including, but not limited to:

- (a) Reason for the pursuit.
- (b) Location and direction of travel.
- (c) Speed of the fleeing vehicle.
- (d) Description of the fleeing vehicle and license number, if known.
- (e) Number of known occupants.
- (f) The identity or description of the known occupants.
- (g) Information concerning the use of firearms, threat of force, injuries, hostages or other unusual hazards.

Unless relieved by a supervisor or secondary unit, the officer in the primary unit shall be responsible for the broadcasting of the progress of the pursuit. Unless practical circumstances indicate otherwise, and in order to concentrate on pursuit driving, the primary officer should relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit or aircraft joining the pursuit.

#### 314.3.4 SECONDARY UNITS RESPONSIBILITIES

The second officer in the pursuit is responsible for the following:

- (a) The officer in the secondary unit should immediately notify the dispatcher of entry into the pursuit.

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- (b) Remain a safe distance behind the primary unit unless directed to assume the role of primary officer, or if the primary unit is unable to continue the pursuit.
- (c) The secondary officer should be responsible for broadcasting the progress of the pursuit unless the situation indicates otherwise.

### **314.3.5 PURSUIT DRIVING TACTICS**

The decision to use specific driving tactics requires the same assessment of considerations outlined in the factors to be considered concerning pursuit initiation and termination. The following are tactics for units involved in the pursuit:

- (a) Officers, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle.
- (b) Because intersections can present increased risks, the following tactics should be considered:
  - 1. Available units not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.
  - 2. Pursuing units should exercise due caution when proceeding through controlled intersections.
- (c) As a general rule, officers should not pursue a vehicle driving left of center (wrong way) on a freeway. In the event that the pursued vehicle does so, the following tactics should be considered:
  - 1. Requesting assistance from an air unit.
  - 2. Maintaining visual contact with the pursued vehicle by paralleling it on the correct side of the roadway.
  - 3. Requesting other units to observe exits available to the suspects.
- (d) Notifying the California Highway Patrol (CHP) and/or other jurisdictional agency if it appears that the pursuit may enter their jurisdiction.
- (e) Officers involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or they are requested to do so by the primary unit.

### **314.3.6 TACTICS/PROCEDURES FOR UNITS NOT INVOLVED IN THE PURSUIT**

There should be no paralleling of the pursuit route. Officers are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian traffic to protect the public. Officers should remain in their assigned area and should not become involved with the pursuit unless directed otherwise by a supervisor.

Non-pursuing personnel needed at the termination of the pursuit should respond in a non-emergency manner, observing the rules of the road.

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The primary and secondary units should be the only units operating under emergency conditions (red light and siren) unless other units are assigned to the pursuit.

### **314.3.7 PURSUIT TRAILING**

In the event the initiating unit from this agency either relinquishes control of the pursuit to another unit or jurisdiction, that initiating unit may, with permission of a supervisor, trail the pursuit to the termination point in order to provide necessary information and assistance for the arrest of the suspects.

The term trail means to follow the path of the pursuit at a safe speed while obeying all traffic laws and without activating emergency equipment. If the pursuit is at a slow rate of speed, the trailing unit will maintain sufficient distance from the pursuit units so as to clearly indicate an absence of participation in the pursuit.

### **314.3.8 AIRCRAFT ASSISTANCE**

When available, aircraft assistance should be requested. Once the air unit has established visual contact with the pursued vehicle, it should assume control over the pursuit. The primary and secondary ground units should consider the participation of aircraft assistance when determining whether to continue the pursuit.

The air unit should coordinate the activities of resources on the ground, report progress of the pursuit and provide officers and supervisors with details of upcoming traffic congestion, road hazards, or other pertinent information to evaluate whether or not to continue the pursuit. If ground units are not within visual contact and the air unit determines that it is unsafe to continue the pursuit, the air unit has the authority to terminate the pursuit.

## **314.4 SUPERVISORY CONTROL AND RESPONSIBILITY**

It is the policy of this department that available supervisory and management control will be exercised over all vehicle pursuits involving officers from this department.

The field supervisor of the officer initiating the pursuit, or if unavailable, the nearest field supervisor will be responsible for the following:

- (a) Upon becoming aware of a pursuit, immediately ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit in order to ensure that the pursuit is conducted within established department guidelines.
- (b) Engaging in the pursuit, when appropriate, to provide on-scene supervision.
- (c) Exercising management and control of the pursuit even if not engaged in it.
- (d) Ensuring that no more than the number of required police units needed are involved in the pursuit under the guidelines set forth in this policy.
- (e) Directing that the pursuit be terminated if, in his/her judgment, it is unjustified to continue the pursuit under the guidelines of this policy.

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- (f) Ensuring that aircraft are requested if available.
- (g) Ensuring that the proper radio channel is being used.
- (h) Ensuring the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this agency.
- (i) Controlling and managing CPD units when a pursuit enters another jurisdiction.
- (j) Preparing post-pursuit critique and analysis of the pursuit for training purposes.

### **314.4.1 WATCH COMMANDER RESPONSIBILITY**

Upon becoming aware that a pursuit has been initiated, the Watch Commander should monitor and continually assess the situation and ensure the pursuit is conducted within the guidelines and requirements of this policy. The Watch Commander has the final responsibility for the coordination, control and termination of a vehicle pursuit and shall be in overall command.

The Watch Commander shall review all pertinent reports for content and forward to the Division Commander.

### **314.5 COMMUNICATIONS**

If the pursuit is confined within the City limits, radio communications will be conducted on the primary channel unless instructed otherwise by a supervisor or communications dispatcher. If the pursuit leaves the jurisdiction of this department or such is imminent, involved units should, whenever available, switch radio communications to an emergency channel most accessible by participating agencies and units.

#### **314.5.1 COMMUNICATION CENTER RESPONSIBILITIES**

Upon notification that a pursuit has been initiated, Communications will:

- (a) Coordinate pursuit communications of the involved units and personnel.
- (b) Notify and coordinate with other involved or affected agencies as practicable.
- (c) Ensure that a field supervisor is notified of the pursuit.
- (d) Assign an incident number and log all pursuit activities.
- (e) Broadcast pursuit updates as well as other pertinent information as necessary.
- (f) Notify the Watch Commander as soon as practicable.

#### **314.5.2 LOSS OF PURSUED VEHICLE**

When the pursued vehicle is lost, the primary unit should broadcast pertinent information to assist other units in locating suspects. The primary unit will be responsible for coordinating any further search for either the pursued vehicle or suspects fleeing on foot.

### **314.6 INTER-JURISDICTIONAL CONSIDERATIONS**

When a pursuit enters another agency's jurisdiction, the primary officer or supervisor, taking into consideration distance traveled, unfamiliarity with the area and other pertinent facts, should

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determine whether to request the other agency to assume the pursuit. Unless entry into another jurisdiction is expected to be brief, it is generally recommended that the primary officer or supervisor ensure that notification is provided to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether such jurisdiction is expected to assist.

#### **314.6.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY**

Units originally involved will discontinue the pursuit when advised that another agency has assumed the pursuit and assistance of the Clovis Police Department is no longer needed. Upon discontinuing the pursuit, the primary unit may proceed upon request, with or at the direction of a supervisor, to the termination point to assist in the investigation.

The role and responsibilities of officers at the termination of a pursuit initiated by this department shall be coordinated with appropriate consideration of the units from the agency assuming the pursuit.

Notification of a pursuit in progress should not be construed as a request to join the pursuit. Requests to or from another agency to assume a pursuit should be specific. Because of communication limitations between local agencies and CHP units, a request for CHP assistance will mean that they will assume responsibilities for the pursuit. For the same reasons, when a pursuit leaves the freeway and a request for assistance is made to this department, the CHP should relinquish control.

#### **314.6.2 PURSUITS EXTENDING INTO THIS JURISDICTION**

The agency that initiates a pursuit shall be responsible for conducting the pursuit. Units from this department should not join a pursuit unless specifically requested to do so by the agency whose officers are in pursuit. The exception to this is when a single unit from the initiating agency is in pursuit. Under this circumstance, a unit from this department may join the pursuit until sufficient units from the initiating agency join the pursuit.

When a request is made for this department to assist or take over a pursuit from another agency that has entered this jurisdiction, the supervisor should consider these additional following factors:

- (a) Ability to maintain the pursuit
- (b) Circumstances serious enough to continue the pursuit
- (c) Adequate staffing to continue the pursuit
- (d) The public's safety within this jurisdiction
- (e) Safety of the pursuing officers

As soon as practicable, a supervisor or the Watch Commander should review a request for assistance from another agency. The Watch Commander or supervisor, after consideration of the above factors, may decline to assist in, or assume the other agency's pursuit.

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Assistance to a pursuing allied agency by officers of this department will terminate at the City limits provided that the pursuing officers have sufficient assistance from other sources. Ongoing participation from this department may continue only until sufficient assistance is present.

In the event that a pursuit from another agency terminates within this jurisdiction, officers shall provide appropriate assistance to officers from the allied agency including, but not limited to, scene control, coordination and completion of supplemental reports and any other assistance requested or needed.

### **314.7 PURSUIT INTERVENTION**

Pursuit intervention is an attempt to terminate the ability of a suspect to continue to flee in a motor vehicle through tactical application of technology, road spikes, blocking, boxing, PIT (Pursuit Intervention Technique), ramming or roadblock procedures. In this context, ramming shall be construed to mean maneuvering the police unit into contact with the pursued vehicle to mechanically disable or forcibly position it such that further flight is not possible or practicable.

#### **314.7.1 WHEN USE IS AUTHORIZED**

In deciding whether to use intervention tactics, officers/supervisors should balance the risks of allowing the pursuit to continue with the potential hazards arising from the use of each tactic to the public, the officers and persons in or on the pursued vehicle. With these risks in mind, the decision to use any intervention tactic should be reasonable in light of the circumstances confronting the officer at the time of the decision.

It is imperative that officers act within the bounds of legality, good judgment and accepted practices.

#### **314.7.2 DEFINITIONS**

**Blocking or vehicle intercept** - A slow-speed coordinated maneuver where two or more patrol vehicles simultaneously intercept and block the movement of a suspect vehicle, the driver of which may be unaware of the impending enforcement stop, with the goal of containment and preventing a pursuit. Blocking is not a moving or stationary road block.

**Boxing-in** - A tactic designed to stop a violator's vehicle by surrounding it with law enforcement vehicles and then slowing all vehicles to a stop.

**Pursuit Intervention Technique (PIT)** - A low-speed maneuver designed to cause the suspect vehicle to spin out and terminate the pursuit.

**Ramming** - The deliberate act of impacting a violator's vehicle with another vehicle to functionally damage or otherwise force the violator's vehicle to stop.

**Roadblocks** - A tactic designed to stop a violator's vehicle by intentionally placing an emergency vehicle or other immovable object in the path of the violator's vehicle.

**Spikes or tack strips** - A device that extends across the roadway designed to puncture the tires of the pursued vehicle.

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### **314.7.3 USE OF FIREARMS**

The use of firearms to disable a pursued vehicle is not generally an effective tactic and involves all the dangers associated with discharging firearms. Officers should not utilize firearms during an ongoing pursuit unless the conditions and circumstances dictate that such use reasonably appears necessary to protect life. Nothing in this section shall be construed to prohibit any officer from using a firearm to stop a suspect from using a vehicle as a deadly weapon.

### **314.7.4 INTERVENTION STANDARDS**

Any pursuit intervention tactic, depending upon the conditions and circumstances under which it is used, may present dangers to the officers, the public or anyone in or on the vehicle being pursued. Certain applications of intervention tactics may be construed to be a use of deadly force and subject to the requirements for such use. Officers shall consider these facts and requirements prior to deciding how, when, where and if an intervention tactic should be employed.

- (a) Blocking or vehicle intercept should only be considered in cases involving felony suspects or impaired drivers who pose a threat to public safety when officers reasonably believe that attempting a conventional enforcement stop will likely result in the driver attempting to flee in the vehicle. Because of the potential risks involved, this technique should only be employed by officers who have received training in such tactics after giving consideration to the following:
  - 1. The need to immediately stop the suspect vehicle or prevent it from leaving substantially outweighs the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
  - 2. All other reasonable intervention techniques have failed or reasonably appear ineffective.
  - 3. Employing the blocking maneuver does not unreasonably increase the risk to officer safety.
  - 4. The target vehicle is stopped or traveling at a low speed.
  - 5. At no time should civilian vehicles be used to deploy this technique.
- (b) Only those officers trained in the use of the Pursuit Intervention Technique (PIT) will be authorized to use this procedure upon consideration of the circumstances and conditions presented at the time, including the potential for risk of injury to officers, the public and occupants of the pursued vehicle.
- (c) Ramming a fleeing vehicle should be done only after other reasonable tactical means at the officer's disposal have been exhausted. This tactic should be reserved for situations where there does not appear to be another reasonable alternative method. This policy is an administrative guide to direct officers in their decision-making process before ramming another vehicle. When ramming is used as a means to stop a fleeing vehicle, one or more of the following factors should be present:

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1. The suspect is an actual or suspected felon who reasonably appears to represent a serious threat to the public if not apprehended.
  2. The suspect is driving with willful or wanton disregard for the safety of other persons or is driving in a reckless and life-endangering manner.
  3. If there does not reasonably appear to be a present or immediately foreseeable serious threat to the public, the use of ramming is not authorized.
- (d) As with all intervention techniques, pursuing officers should obtain supervisor approval before attempting to box a suspect vehicle during a pursuit. The use of such a technique must be carefully coordinated with all involved units, taking into consideration the circumstances and conditions presented at the time as well as the potential risk of injury to officers, the public and occupants of the pursued vehicle.
- (e) The use of spike strips should be approved in advance by a supervisor and deployed only when it is reasonably certain that only the pursued vehicle will be affected by their use. Officers should carefully consider the limitations of such devices as well as the potential risks to officers, the public and occupants of the pursued vehicle. If the pursued vehicle is a motorcycle, a vehicle transporting hazardous materials, or a school bus transporting children, officers and supervisors should weigh the potential consequences against the need to immediately stop the vehicle.
- (f) Because roadblocks involve a potential for serious injury or death to occupants of the pursued vehicle if the suspect does not stop, the intentional placement of roadblocks in the direct path of a pursued vehicle is generally discouraged and should not be deployed without prior approval of a supervisor and only then under extraordinary conditions when all other reasonable intervention techniques have failed or reasonably appear ineffective and the need to immediately stop the pursued vehicle substantially outweighs the risks of injury or death to occupants of the pursued vehicle, officers or other members of the public.

#### **314.7.5 CAPTURE OF SUSPECTS**

Proper self-discipline and sound professional judgment are the keys to a successful conclusion of a pursuit and apprehension of evading suspects. Officers shall use only that amount of force, which reasonably appears necessary under the circumstances, to properly perform their lawful duties.

Unless relieved by a supervisor the primary officer should coordinate efforts to apprehend the suspect(s) following the pursuit. Officers should consider safety of the public and the involved officers when formulating plans to contain and capture the suspect.

#### **314.8 REPORTING REQUIREMENTS**

The following reports should be completed upon conclusion of all pursuits:

- (a) The primary officer should complete appropriate crime/arrest reports.



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- (b) The Watch Commander shall ensure that an Allied Agency Vehicle Pursuit Report (form CHP 187A) is filed with the CHP not later than 30 days following the pursuit (Vehicle Code § 14602.1). The primary officer should complete as much of the required information on the form as is known and forward the report to the Watch Commander for review and distribution.
- (c) After first obtaining the available information, a field supervisor shall promptly complete the appropriate Department forms, briefly summarizing the pursuit, and submit it to Administrative Staff. This memo should minimally contain the following information:
  - 1. Date and time of pursuit
  - 2. Length of pursuit
  - 3. Involved units and officers
  - 4. Initial reason for pursuit
  - 5. Starting and termination points
  - 6. Disposition (arrest, citation), including arrestee information if applicable
  - 7. Injuries and/or property damage
  - 8. Medical treatment
  - 9. Name of supervisor at scene
  - 10. A preliminary determination whether the pursuit appears to be in compliance with this policy and whether additional review or follow-up is warranted

#### **314.8.1 REGULAR AND PERIODIC PURSUIT TRAINING**

In addition to initial and supplementary Police Officer Standard Training (POST) training on pursuits required by Penal Code § 13519.8, all sworn members of this department will participate no less than annually in regular and periodic department training addressing this policy and the importance of vehicle safety and protecting the public at all times, including a recognition of the need to balance the known offense and the need for immediate capture against the risks to officers and others (Vehicle Code § 17004.7(d)).

#### **314.8.2 POLICY REVIEW**

Each sworn member of this department shall certify in writing that they have received, read and understand this policy initially and upon any amendments. The POST attestation form, or an equivalent form, may be used to document the compliance and should be retained in the member's training file.

#### **314.9 APPLICATION OF VEHICLE PURSUIT POLICY**

This policy is expressly written and adopted pursuant to the provisions of Vehicle Code § 17004.7, with additional input from the POST Vehicle Pursuit Guidelines.

## Officer Response to Calls

### 316.1 PURPOSE AND SCOPE

This policy provides for the safe and appropriate response to emergency and non-emergency situations whether dispatched or self-initiated.

### 316.2 RESPONSE TO CALLS

Officers dispatched "Code-3" shall consider the call an emergency response and proceed immediately. Officers responding Code-3 shall continuously operate emergency lighting equipment, including at minimum a steady forward facing red light, and shall sound the siren as reasonably necessary pursuant to Vehicle Code § 21055.

Responding with emergency light(s) and siren does not relieve the officer of the duty to continue to drive with due regard for the safety of all persons. The use of any other warning equipment without a red light and siren does not provide any exemption from the Vehicle Code.

Officers should observe all traffic laws when not responding code-3 to calls.

### 316.3 REQUESTING EMERGENCY ASSISTANCE

Requests for emergency assistance should be limited to those situations where the involved personnel reasonably believe that there is an immediate threat to the safety of officers, or assistance is needed to prevent imminent serious harm to a citizen. In any event, where a situation has stabilized and emergency response is not required, the requesting officer shall immediately notify Communications.

If circumstances permit, the requesting officer should give the following information:

- The unit number
- The location
- The reason for the request and type of emergency
- The number of units required

#### 316.3.1 NUMBER OF UNITS ASSIGNED

Normally, only one unit should respond to an emergency call Code-3 unless the Watch Commander or the field supervisor authorizes an additional unit(s).

### 316.4 INITIATING CODE 3 RESPONSE

If an officer believes a Code-3 response to any call is appropriate, the officer should notify Communications. Generally, only one unit should respond Code-3 to any situation. Should another officer believe a Code-3 response is appropriate, Communications should be notified and the Code-3 response will be deemed authorized unless cancelled by a Watch Commander or field supervisor.

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#### **316.5 RESPONSIBILITIES OF RESPONDING OFFICERS**

Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. Officers should reduce speed at intersections to such a degree that they shall maintain complete control of the vehicle.

The decision to continue a Code-3 response is at the discretion of the officer. If, in the officer's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of red lights and siren at the legal speed limit. In such an event, the officer should immediately notify Communications. An officer shall also discontinue the Code-3 response when directed by a supervisor.

Upon receiving authorization or determining a Code-3 response is appropriate, an officer shall immediately give the location from which he/she is responding.

#### **316.6 COMMUNICATIONS RESPONSIBILITIES**

A dispatcher shall assign a Code-3 response when an officer requests emergency assistance or available information reasonably indicates that the public is threatened with serious injury or death and immediate police response is needed. In all other circumstances, the dispatcher shall obtain authorization from the Watch Commander or a field supervisor prior to assigning units Code-3. The dispatcher shall:

- (a) Attempt to assign the closest available unit to the location requiring assistance
- (b) Immediately notify the Watch Commander
- (c) Confirm the location from which the unit is responding
- (d) Notify and coordinate allied emergency services (e.g., fire and ambulance)
- (e) Continue to obtain and broadcast information as necessary concerning the response and monitor the situation until it is stabilized or terminated
- (f) Control all radio communications during the emergency and coordinate assistance under the direction of the Watch Commander or field supervisor

#### **316.7 SUPERVISORY RESPONSIBILITIES**

Upon being notified that a Code-3 response has been initiated, the Watch Commander or the field supervisor shall verify the following:

- (a) The proper response has been initiated
- (b) No more than those units reasonably necessary under the circumstances are involved in the response
- (c) Affected outside jurisdictions are being notified as practical

The field supervisor shall monitor the response until it has been stabilized or terminated and assert control by directing units into or out of the response if necessary. If, in the supervisor's judgment,

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the circumstances require additional units to be assigned a Code-3 response, the supervisor may do so.

It is the supervisor's responsibility to terminate a Code-3 response that, in his/her judgment is inappropriate due to the circumstances.

When making the decision to authorize a Code-3 response, the Watch Commander or the field supervisor should consider the following:

- The type of call
- The necessity of a timely response
- Traffic and roadway conditions
- The location of the responding units

#### **316.8 FAILURE OF EMERGENCY EQUIPMENT**

If the emergency equipment on the vehicle should fail to operate, the officer must terminate the Code-3 response and respond accordingly. In all cases, the officer shall notify the Watch Commander, field supervisor, or Communications of the equipment failure so that another unit may be assigned to the emergency response.

## **Canines**

### **318.1 PURPOSE AND SCOPE**

The Canine Program was established to augment police services to the community. Highly skilled and trained teams of handlers and canines have evolved from the program and are used to supplement police operations to locate individuals, contraband and to apprehend criminal offenders.

### **318.2 GUIDELINES FOR THE USE OF CANINES**

A canine may be used to locate and apprehend a suspect if the canine handler reasonably believes that the individual has either committed or threatened to commit any serious offense and if any of the following conditions exist:

- (a) There is a reasonable belief the individual poses an imminent threat of violence or serious harm to the public, any officer, or the handler
- (b) The individual is physically resisting or threatening to resist arrest and the use of a canine reasonably appears to be necessary to overcome such resistance
- (c) The individual(s) is/are believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of officers or the public
- (d) It is recognized that situations may arise that do not fall within the provisions set forth in this policy. In any such case, a standard of objective reasonableness shall be used to review the decision to use a canine in view of the totality of the circumstances

Absent reasonable belief that an individual has committed or threatened to commit a serious offense, mere flight from pursuing officer(s) shall not serve as good cause for the use of a canine to apprehend an individual.

#### **318.2.1 PREPARATION FOR UTILIZING A CANINE**

Prior to the use of a canine to search for or apprehend any individual, the canine handler and/or the supervisor on scene shall carefully consider all pertinent information reasonably available at the time. The information should include, but is not limited to the following:

- (a) The individual's age or estimate thereof
- (b) The nature of the suspected offense
- (c) Any potential danger to the public and/or other officers at the scene if the canine is released
- (d) The degree of resistance or threatened resistance, if any, the subject has shown;
- (e) The potential for escape or flight if the police dog is not utilized
- (f) The potential for injury to officers or the public caused by the suspect if the police dog is not utilized

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A canine handler shall have the ultimate authority not to deploy the dog. The handler will evaluate each situation and determine if the use of a canine is technically feasible. Generally, the decision to deploy the dog shall remain with the handler; however, a supervisor sufficiently apprised of the situation may decide not to deploy the dog.

#### **318.2.2 WARNINGS GIVEN TO ANNOUNCE THE USE OF A CANINE**

Unless it would otherwise increase the risk of injury or escape, a clearly audible warning to announce that a canine will be released if the person does not come forth, shall be made prior to releasing a canine. The canine handler, when practical, shall first advise the supervisor of his/her decision if a verbal warning is not given prior to releasing the canine. In the event of an apprehension, the handler shall document in any related report whether or not a verbal warning was given and, if none was given, the reasons why. The announcement should contain the following information:

- Identification as a Clovis PD K9 Unit.
- The area is about to be searched with a dog.
- The dog may bite the person.
- A command for the person to come forth or make themselves known immediately.

Example:

"This is a Clovis Police Department K9 Unit. This area/building is going to be searched with a police dog. When the police dog finds you he will bite you. Make yourself known and come out now."

*Repeat announcement with the below sentence at the end of the second announcement.*

"This is your last and final warning."

#### **318.2.3 USE OF NARCOTIC-DETECTION CANINES**

A narcotic-detection-trained canine may be used in accordance with current law under the following circumstances:

- (a) To assist in the search for narcotics during a search warrant service.
- (b) To obtain a search warrant by using the detection canine in support of probable cause.
- (c) To search vehicles, buildings, bags and any other articles deemed necessary.

A narcotic-detection canine will not be used to search a person for narcotics.

#### **318.2.4 GUIDELINES FOR NON-APPREHENSION USE**

Because canines have senses far superior to those of humans, they may often be effectively utilized to track or search for non-criminals (e.g. lost children, individuals who may be disoriented or in need of medical attention) or even suspects wanted for minor criminal offenses. In such circumstances, it will be necessary for the handler to evaluate the conditions and ability of the canine to determine the feasibility of such an application.

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- (a) Absent a change in circumstances which presents an immediate threat to officers, the canine or the public, such applications should be conducted on leash or under such conditions that the canine will not bite or otherwise injure the individual, if located.
- (b) Throughout the deployment of the canine in such circumstances, the handler should give periodic verbal assurances that the canine will not bite or hurt the person.
- (c) Unless otherwise directed by a supervisor, assisting personnel should take direction from the handler in order to minimize interference with the canine.

### 318.2.5 REPORTING CANINE USE, BITES AND INJURIES

Whenever the police service dog is deployed, a Canine Use Report shall be completed by the handler and turned in to the Unit Coordinator before going off duty.

Whenever the use of the canine results in a bite or any injury a Canine Use Report form shall be completed and included with any related incident report.

Photographs shall be taken of the bite or injury as soon as practicable after tending to the immediate needs of the injured party. Photographs shall be retained as evidence in accordance with current department evidence procedures. The injured party should be transported to an appropriate medical facility if the injury requires medical attention beyond first aid. If the injured party is in custody an officer should remain with the suspect until treatment has been rendered.

If a subject alleges an injury that is not visible, a supervisor shall be notified and the location of the alleged injury should be photographed as described above.

The Unit Coordinator will maintain liaison with the Animal Control Department to ensure that information regarding canine bites is not retained by their office. Canines used by law enforcement agencies are exempt from impoundment and reporting requirements to the Animal Control Department (Food and Agriculture Code § 31609(b)).

### 318.2.6 REPORTING CANINE INJURIES

In the event that a canine is injured, the injury will be immediately reported to the Watch Commander **and the unit coordinator**.

Depending on the severity of the injury, the canine shall either be treated by the designated veterinarian or transported to a designated emergency medical facility for treatment. If the handler and dog are out of the area, the handler may use the nearest available veterinarian.

The injury will be documented on a Canine Use Report Form.

### 318.2.7 ASSIGNMENT OF CANINES

The canine teams shall be assigned to the Enforcement Division to supplement and assist the Patrol Division.

Canine teams should function primarily as cover units however; they may be assigned by the Watch Commander to other functions based on the needs of the watch at the time.

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Canine teams should not be assigned to handle matters that will take them out of service for extended periods of time unless absolutely necessary and only with the approval of the Watch Commander.

### **318.3 REQUEST FOR USE OF CANINE TEAMS**

Personnel within the Department are encouraged to freely solicit the use of the canines. Requests for a canine team from outside of the Patrol Division shall go through the Unit Coordinator or the Watch Commander.

#### **318.3.1 REQUEST FOR ASSISTANCE FROM OTHER AGENCIES**

The Watch Commander or the Unit Coordinator must approve all requests for canine assistance from outside agencies, subject to the following provisions:

- (a) Canine teams shall not be used for any assignment that is not consistent with this policy.
- (b) The handler has the ultimate authority to decide whether the canine should be used for any specific assignment.
- (c) Canine teams shall not be called out while off-duty or used outside the boundaries of the City of Clovis unless authorized by the Watch Commander or the Unit Coordinator.
- (d) It shall be the responsibility of the canine handler to coordinate with outside agency personnel in order to minimize the risk of unintended injury.

#### **318.3.2 REQUEST FOR PUBLIC DEMONSTRATIONS**

All public requests for a canine team shall be approved by the Unit Coordinator prior to making any commitment.

Handlers shall not demonstrate any apprehension work to the public unless authorized to do so by the Unit Coordinator.

### **318.4 SELECTION OF CANINE HANDLERS**

The following are the minimum qualifications for the assignment of canine handler:

- (a) Three years of experience as a Clovis Police Department officer
- (b) Reside in an adequately fenced, single-family, residence (minimum five-foot high fence with locking gates)
- (c) Live within 30 minutes travel time from the Clovis City limits
- (d) Agree to be assigned to the position for a minimum of three years

### **318.5 CANINE HANDLER RESPONSIBILITIES**



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### **318.5.1 AVAILABILITY**

The handler shall be available for call-out under conditions specified by the Unit Coordinator.

### **318.5.2 CARE FOR THE CANINE AND EQUIPMENT**

The handler shall ultimately be responsible for the health and welfare of the canine and shall ensure that the canine receives proper nutrition, grooming, training, medical care, affection, and living conditions. The handler will be responsible for the following:

- (a) Unless required by a particular application, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.
- (b) The handler shall maintain all department equipment under his/her control in a clean and serviceable condition.
- (c) Handlers shall permit the Unit Coordinator to conduct spontaneous on-site inspections of affected areas of their residence as well as the canine unit, to verify that conditions and equipment conform to this policy.
- (d) Any changes in the living status of the handler which may affect the lodging or environment of the canine shall be reported to the Unit Coordinator as soon as possible.
- (e) When off-duty, canines shall be maintained in kennels, provided by the City, at the homes of their handlers. When a canine is kenneled at the handler's home, the gate shall be secured with a lock. When off-duty, canines may be let out of their kennels while under the direct control of their handlers.
- (f) The canine should be permitted to socialize in the home with the handler's family for short periods of time and under the direct supervision of the handler.
- (g) Under no circumstances will the canine be lodged at another location unless approved by the Unit Coordinator or Watch Commander.
- (h) When off-duty, handlers shall not involve their canines in any activity or conduct unless approved in advance by the Unit Coordinator or Watch Commander.
- (i) Whenever a canine handler anticipates taking a vacation or an extended number of days off, it may be necessary to temporarily relocate the canine. In those situations, the handler shall give reasonable notice to the Unit Coordinator so that appropriate arrangements can be made.

### **318.5.3 CANINE IN PUBLIC AREAS**

All canines shall be kept on a leash when in areas that allow access to the public. Exceptions would include specific police operations for which the canines are trained.

- (a) Canines shall not be left unattended in any area to which the public may have access.

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- (b) When the canine unit is left unattended all windows and doors shall be secured in such a manner as to prevent unauthorized access to the dog. The handler shall also insure that the unattended unit remains inhabitable for the canine.

#### 318.5.4 HANDLER COMPENSATION

The canine handler shall be compensated for time spent in the care, feeding, grooming and other needs of the dog as provided in the Fair Labor Standards Act. The compensation shall be prescribed in the employee's Memorandum of Understanding.

#### 318.6 MEDICAL CARE OF THE CANINE

All medical attention shall be rendered by the designated canine veterinarian, except during an emergency as provided in Policy Manual § 318.6.2.

##### 318.6.1 NON-EMERGENCY MEDICAL CARE

Non-emergency medical care will be coordinated through the Unit Coordinator.

Any indication that a canine is not in good physical condition shall be reported to the Unit Coordinator or the Watch Commander as soon as practical.

All records of medical treatment shall be maintained in the veterinarian's office.

##### 318.6.2 EMERGENCY MEDICAL CARE

The designated emergency medical treatment center or canine veterinarian shall render emergency medical treatment. The handler shall notify the Unit Coordinator as soon as practicable when emergency medical care is required.

#### 318.7 TRAINING

Before assignment in the field, each canine team shall be trained and certified to meet current POST standards. Cross trained dog teams or those dog teams trained exclusively for the detection of narcotics and/or explosives shall be trained and certified to meet the standards established for such detection dogs by P.O.S.T.

##### 318.7.1 CONTINUED TRAINING

Each canine team shall thereafter be recertified to current POST standards on an annual basis. Additional training considerations are as follows:

- (a) Canine teams shall receive training as defined in current contract with the Department's canine training provider.
- (b) Canine handlers are encouraged to engage in additional training with approval of the Unit Coordinator.
- (c) In order to ensure that all training is consistent, no handler, trainer, or outside vendor is authorized to train to a standard that is contrary to the policies of the Clovis Police Department.

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- (d) All canine training shall be conducted while on-duty unless otherwise approved by the Unit Coordinator or Watch Commander.

### **318.7.2 FAILURE TO SUCCESSFULLY COMPLETE POST TRAINING**

Any dog team failing POST canine certification shall not be deployed in the field until certification is achieved. When practical, pending successful certification, the canine handler shall be temporarily reassigned to regular patrol duties.

### **318.7.3 TRAINING RECORDS**

All canine training records shall be maintained in the canine handler's training file.

### **318.8 CANINE UNIT COORDINATOR RESPONSIBILITIES**

The Unit Coordinator shall be appointed by staff and shall supervise the Canine Program. The Unit Coordinator is directly responsible to the Patrol Division Commander. The Unit Coordinator shall be responsible for, but not limited to, the following:

- (a) Review all Canine Use Reports to insure compliance with policy and to identify training issues and other needs of the program.
- (b) Maintain liaison with the vendor kennel.
- (c) Maintain liaison with administrative staff and functional supervisors.
- (d) Maintain liaison with other agency canine coordinators.
- (e) Maintain accurate records to document canine activities.
- (f) Recommend and oversee the procurement of needed equipment and services for the unit.
- (g) Be responsible for scheduling all canine related activities.
- (h) Ensure the canine teams are scheduled for continuous training to maximize the capabilities of the teams.
- (i) Maintaining familiarity with current case law involving canine units and usage.

### **318.9 CONTROLLED SUBSTANCE TRAINING AIDS**

Controlled substance training aids are required to effectively train and maintain drug detecting dogs. Further, controlled substances can also be an effective training aid during training sessions for law enforcement personnel and the public.

Health & Safety Code § 11367.5 provides that any Sheriff, Chief Of Police, the Chief of the Bureau of Controlled Substance Enforcement, or the Commissioner of the California Highway Patrol, or a designee thereof may, in his or her discretion, provide controlled substances in his or her possession for training purposes:

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- (a) To any duly authorized peace officer or civilian drug detection canine trainer working under the direction of a law enforcement agency
- (b) Provided the controlled substances are no longer needed as criminal evidence
- (c) Provided the person receiving the controlled substances, if required by the Drug Enforcement Administration, possesses a current and valid Drug Enforcement Administration registration that specifically authorizes the recipient to possess controlled substances while providing substance abuse training to law enforcement or the community or while providing canine drug detection training.

**318.9.1 PROCEDURES**

Due to the responsibilities and liabilities involved with possessing readily usable amounts of controlled substances and the ever-present danger of accidental ingestion of these controlled substances by the canine, the following procedure shall be strictly followed:

- (a) All necessary controlled substance training samples shall be acquired from the Clovis Police Department's evidence personnel or from allied agencies authorized by Health & Safety Code § 11367.5 to provide controlled substance training samples. All controlled substance training samples shall be weighed and tested prior to dispensing to the individual canine handler
- (b) The weight and test results shall be recorded and maintained by this department
- (c) Any person receiving controlled substance training samples pursuant to Health & Safety Code § 11367.5 shall maintain custody and control of the controlled substances and shall keep records regarding any loss of, or damage to, those controlled substances
- (d) All controlled substance training samples will be inspected, weighed, and tested quarterly. The results of the quarterly testing shall be recorded and maintained by the canine coordinator with a copy forwarded to the dispensing agency
- (e) All controlled substance training samples will be stored in a department approved locked container at all times, except during training. The locked container shall be secured in the trunk of the canine handler's assigned patrol unit, or stored in a locked evidence locker. There are no exceptions to this procedure.
- (f) The Canine Unit Coordinator shall periodically inspect every controlled substance training sample for damage or tampering and take any appropriate action
- (g) Any unusable controlled substance training samples shall be returned to the Property Office or to the dispensing agency
- (h) All controlled substance training samples shall be returned to the dispensing agency upon the conclusion of the training or upon demand by the dispensing agency

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#### **318.9.2 IMMUNITY**

All duly authorized peace officers acting in the performance of their official duties and any person working under their immediate direction, supervision or instruction are immune from prosecution under the Uniform Controlled Substance Act while providing substance abuse training or canine drug detection training (Health & Safety Code § 11367.5(b)).

## Domestic Violence

### 320.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of this department to take enforcement action when appropriate, to provide assistance to victims and to guide officers in the investigation of domestic violence.

#### 320.1.1 DEFINITIONS

Definitions related to this policy include:

**Abuse** - means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of Imminent serious bodily injury.

**Cohabitant** - means two unrelated adult persons living together for a substantial period of time, resulting in some permanence of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to:

- Sexual relations between the parties while sharing the same living quarters
- Sharing of income or expenses
- Joint use or ownership of property
- Whether the parties hold themselves out as husband and wife or domestic partners
- The continuity of the relationship

**Court order** - All forms of orders related to domestic violence, that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.

**Domestic Violence** - is abuse committed against an adult or minor who is a spouse, former spouse, cohabitant, former cohabitant, or a person with whom the suspect has had a child or is having or has had a dating or engagement relationship.

### 320.2 POLICY

The Clovis Police Department's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

### 320.3 OFFICER SAFETY

The investigation of domestic violence cases often places officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede

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the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved.

### **320.4 INVESTIGATIONS**

The following guidelines should be followed by officers when investigating domestic violence cases:

- (a) Calls of reported, threatened, imminent or ongoing domestic violence and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.
- (b) When practicable, officers should obtain and document statements from the victim, the suspect and any witnesses, including children, in or around the household or location of occurrence.
- (c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.
- (d) When practicable and legally permitted, video or audio record all significant statements and observations.
- (e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Investigations in the event that the injuries later become visible. Officers should consider a Forensic Domestic Violence exam for victims with significant injuries.
- (f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (g) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement and make an arrest or seek an arrest warrant if appropriate.
- (h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence. If the domestic violence involved threats of bodily harm, any firearm discovered in plain view or pursuant to consent or other lawful search must be taken into temporary custody (Penal Code § 18250).
- (i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order and the provision of the order that the subject is alleged to have violated. When

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reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.

- (j) Officers should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:
  - 1. Marital status of suspect and victim.
  - 2. Whether the suspect lives on the premises with the victim.
  - 3. Claims by the suspect that the victim provoked or perpetuated the violence.
  - 4. The potential financial or child custody consequences of arrest.
  - 5. The physical or emotional state of either party.
  - 6. Use of drugs or alcohol by either party.
  - 7. Denial that the abuse occurred where evidence indicates otherwise.
  - 8. A request by the victim not to arrest the suspect.
  - 9. Location of the incident (public/private).
  - 10. Speculation that the complainant may not follow through with the prosecution.
  - 11. The racial, cultural, social, professional position or sexual orientation of the victim or suspect.
- (k) When evaluating domestic violence calls, officers should consider all crimes handled as domestic violence. This includes consideration of child endangerment charges if there were children present during the incident.

#### 320.4.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, officers should:

- (a) Advise the victim that there is no guarantee the suspect will remain in custody
- (b) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

#### 320.4.2 IF NO ARREST IS MADE

If no arrest is made, the officer should:

- (a) Advise the parties of any options, including but not limited to:
  - 1. Voluntary separation of the parties.
  - 2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).
- (b) Document the resolution in a report.



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### **320.5 VICTIM ASSISTANCE**

Victims may be traumatized or confused. Officers should:

- (a) Recognize that a victim's behavior and actions may be affected.
- (b) Provide the victim with the department's domestic violence information handout, even if the incident may not rise to the level of a crime.
- (c) Alert the victim to any available victim advocates, shelters and community resources.
- (d) Stand by for a reasonable amount of time when an involved person requests law enforcement assistance while removing essential items of personal property.
- (e) Seek medical assistance as soon as practicable for the victim if he/she has sustained injury or complains of pain.
- (f) Ask the victim whether he/she has a safe place to stay. Assist in arranging to transport the victim to an alternate shelter if the victim expresses a concern for his/her safety or if the officer determines that a need exists.
- (g) Make reasonable efforts to ensure that children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (h) Seek or assist the victim in obtaining an emergency order if appropriate.

An officer shall advise an individual protected by a Canadian domestic violence protection order of available local victim services (Family Code § 6452).

### **320.6 DISPATCH ASSISTANCE**

All calls of domestic violence, including incomplete 9-1-1 calls, should be dispatched as soon as practicable.

Dispatchers are not required to verify the validity of a court order before responding to a request for assistance. Officers should request that dispatchers check whether any of the involved persons are subject to the terms of a court order.

### **320.7 FOREIGN COURT ORDERS**

Various types of orders may be issued in domestic violence cases. Any foreign court order properly issued by a court of another state, Indian tribe, or territory shall be enforced by officers as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court or foreign order shall be enforced, regardless of whether the order has been properly registered with this state (Family Code § 6403).

Canadian domestic violence protection orders shall also be enforced in the same manner as if issued in this state (Family Code § 6452).

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**320.8 VERIFICATION OF COURT ORDERS**

Determining the validity of a court order, particularly an order from another jurisdiction, can be challenging. Therefore, in determining whether there is probable cause to make an arrest for a violation of any court order, officers should carefully review the actual order when available, and where appropriate and practicable:

- (a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.
  - 1. If a determination is made that a valid foreign order cannot be enforced because the subject has not been notified or served the order, the officer shall inform the subject of the order, make a reasonable effort to serve the order upon the subject, and allow the subject a reasonable opportunity to comply with the order before enforcing the order. Verbal notice of the terms of the order is sufficient notice (Family Code § 6403).
- (b) Check available records or databases that may show the status or conditions of the order.
  - 1. Registration or filing of an order in California is not required for the enforcement of a valid foreign order (Family Code § 6403).
- (c) Contact the issuing court to verify the validity of the order.
- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

Officers should document in an appropriate report their efforts to verify the validity of an order, regardless of whether an arrest is made. Officers should contact a supervisor for clarification when needed.

**320.8.1 WHEN ORDERS ARE NOT VERIFIABLE**

If the victim is not in possession of the restraining order and/or for any reason the officer can not verify the validity of the order the following action shall be taken:

- (a) Write a report, give the police report number to the victim.
- (b) Inform the victim of how to can contact the appropriate detective or investigation unit for further action (Penal Code § 13730(c)).
- (c) Inform the victim of the right to make a private person's arrest for the appropriate violation. In domestic violence cases where the suspect has left the scene, an investigation should be conducted to determine if a crime has been committed. In such circumstances a written report shall be completed and the victim shall be informed of the case number and the follow-up criminal procedure (Penal Code §§ 13730(c) and 13701(c)).

**320.9 LEGAL MANDATES AND RELEVANT LAWS**

California law provides for the following:

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**320.9.1 STANDARDS FOR ARRESTS**

Officers investigating a domestic violence report should consider the following:

- (a) An arrest should be made when there is probable cause to believe that a felony or misdemeanor domestic violence offense has been committed (Penal Code § 13701). Any decision to not arrest an adult when there is probable cause to do so requires supervisor approval.
  - 1. Officers are only authorized to make an arrest without a warrant for a misdemeanor domestic violence offense if the officer makes the arrest as soon as probable cause arises (Penal Code § 836).
- (b) An officer responding to a domestic violence call who cannot make an arrest will advise the victim of his/her right to make a private person's arrest. The advisement should be made out of the presence of the suspect and shall include advising the victim how to safely execute the arrest. Officers shall not dissuade victims from making a lawful private person's arrest. Officers should refer to the provisions in the Private Persons Arrests Policy for options regarding the disposition of private person's arrests (Penal Code § 836(b)).
- (c) Officers shall not cite and release a person for the following offenses (Penal Code § 853.6(a)(3)):
  - 1. Penal Code § 243(e)(1) (battery against spouse, cohabitant)
  - 2. Penal Code § 273.5 (corporal injury on spouse, cohabitant, fiancé/fiancée, person of a previous dating or engagement relationship, mother/father of the offender's child)
  - 3. Penal Code § 273.6 (violation of protective order) if violence or threats of violence have occurred or the suspect has gone to the workplace or residence of the protected party
  - 4. Penal Code § 646.9 (stalking)
  - 5. Other serious or violent felonies specified in Penal Code § 1270.1
- (d) In responding to domestic violence incidents, including mutual protective order violations, officers should generally be reluctant to make dual arrests. Officers shall make reasonable efforts to identify the dominant aggressor in any incident. The dominant aggressor is the person who has been determined to be the most significant, rather than the first, aggressor (Penal Code § 13701). In identifying the dominant aggressor, an officer shall consider:
  - 1. The intent of the law to protect victims of domestic violence from continuing abuse.
  - 2. The threats creating fear of physical injury.
  - 3. The history of domestic violence between the persons involved.
  - 4. Whether either person acted in self-defense.
- (e) An arrest shall be made when there is probable cause to believe that a violation of a domestic violence court order has been committed (Penal Code § 13701; Penal Code

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§ 836), regardless of whether the offense was committed in the officer's presence. After arrest, the officer shall confirm that a copy of the order has been registered, unless the victim provides a copy (Penal Code § 836).

### **320.9.2 COURT ORDERS**

- (a) An officer who obtains an emergency protective order from the court shall serve it on the restrained person if the person can be reasonably located, and shall provide the person protected or the person's parent/guardian with a copy of the order. The officer shall file a copy with the court as soon as practicable and shall have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice (Family Code § 6271; Penal Code § 646.91).
- (b) At the request of the petitioner, an officer at the scene of a reported domestic violence incident shall serve a court order on a restrained person (Family Code § 6383; Penal Code § 13710).
- (c) Any officer serving a protective order that indicates that the respondent possesses weapons or ammunition shall request that the firearm/ammunition be immediately surrendered (Family Code § 6389(c)(2)).
- (d) During the service of a protective order any firearm discovered in plain view or pursuant to consent or other lawful search shall be taken into temporary custody (Penal Code § 18250).
- (e) If a valid Canadian order cannot be enforced because the person subject to the order has not been notified or served with the order, the officer shall notify the protected individual that reasonable efforts shall be made to contact the person subject to the order. The officer shall make a reasonable effort to inform the person subject to the order of the existence and terms of the order and provide him/her with a record of the order, if available, and shall allow the person a reasonable opportunity to comply with the order before taking enforcement action (Family Code § 6452).

### **320.9.3 PUBLIC ACCESS TO POLICY**

A copy of this domestic violence policy will be provided to members of the public upon request (Penal Code § 13701).

### **320.9.4 REPORTS AND RECORDS**

- (a) A written report shall be completed on all incidents of domestic violence. All such reports should be documented on the appropriate form, which includes information and notations specific to domestic violence incidents as required by Penal Code § 13730.
- (b) Reporting officers should provide the victim with the case number of the report. The case number may be placed in the space provided on the domestic violence victim information handout provided to the victim. If the case number is not immediately available, an explanation should be given regarding how the victim can obtain the information at a later time.
- (c) Officers who seize any firearm or other deadly weapon in a domestic violence incident shall issue the individual possessing such weapon a receipt that includes the name

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and residential mailing address of the owner or person who possessed the weapon and notice of where the weapon may be recovered, along with the applicable time limit for recovery (Penal Code § 18250; Penal Code § 18255; Penal Code § 33800; Family Code § 6389(c)(2)).

#### **320.9.5 RECORD-KEEPING AND DATA COLLECTION**

This department shall maintain records of court orders related to domestic violence and the service status of each (Penal Code § 13710), as well as records on the number of domestic violence related calls reported to the Department, including whether weapons were used in the incident or whether the incident involved strangulation or suffocation (Penal Code § 13730). This information is to be reported to the Attorney General monthly. It shall be the responsibility of the Records Supervisor to maintain and report this Information as required.

#### **320.9.6 DECLARATION IN SUPPORT OF BAIL INCREASE**

Any officer who makes a warrantless arrest for a felony or misdemeanor violation of a domestic violence restraining order shall evaluate the totality of the circumstances to determine whether reasonable cause exists to seek an increased bail amount. If there is reasonable cause to believe that the scheduled bail amount is insufficient to assure the arrestee's appearance or to protect the victim or family member of a victim, the officer shall prepare a declaration in support of increased bail (Penal Code § 1269c).

## **Search and Seizure**

### **322.1 PURPOSE AND SCOPE**

Both the federal and state Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for Clovis Police Department personnel to consider when dealing with search and seizure issues.

### **322.2 POLICY**

It is the policy of the Clovis Police Department to respect the fundamental privacy rights of individuals. Members of this department will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this department will comply with relevant federal and state law governing the seizure of persons and property.

The Department will provide relevant and current training to officers as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

### **322.3 SEARCHES**

The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions that permit a warrantless search.

Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:

- Valid consent
- Incident to a lawful arrest
- Legitimate community caretaking interests
- Vehicle searches under certain circumstances
- Exigent circumstances

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property, and observations of activities and property located on open public areas.

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this department is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

Whenever practicable, officers are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

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#### **322.4 SEARCH PROTOCOL**

Although conditions will vary and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances permit:

- (a) Members of this department will strive to conduct searches with dignity and courtesy.
- (b) Officers should explain to the person being searched the reason for the search and how the search will be conducted.
- (c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.
- (d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.
- (e) When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practicable to summon an officer of the same sex as the subject, the following guidelines should be followed:
  1. Another officer or a supervisor should witness the search.
  2. The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.

#### **322.5 DOCUMENTATION**

Officers are responsible to document any search and to ensure that any required reports are sufficient including, at minimum, documentation of the following:

- Reason for the search
- Any efforts used to minimize the intrusiveness of any search (e.g., asking for consent or keys)
- What, if any, injuries or damage occurred
- All steps taken to secure property
- The results of the search, including a description of any property or contraband seized
- If the person searched is the opposite sex, any efforts to summon an officer of the same sex as the person being searched and the identification of any witness officer

Supervisors shall review reports to ensure the reports are accurate, that actions are properly documented and that current legal requirements and department policy have been met.

## Temporary Custody of Juveniles

### 324.1 PURPOSE AND SCOPE

This policy provides guidelines consistent with the Juvenile Justice and Delinquency Prevention Act for juveniles taken into temporary custody by members of the Clovis Police Department (34 USC § 11133).

Guidance regarding contacting juveniles at schools or who may be victims is provided in the Child Abuse Policy.

#### 324.1.1 DEFINITIONS

Definitions related to this policy include:

**Juvenile non-offender** - An abused, neglected, dependent, or alien juvenile who may be legally held for his/her own safety or welfare. This also includes any juvenile who may have initially been contacted for an offense that would not subject an adult to arrest (e.g., fine-only offense) but was taken into custody for his/her protection or for purposes of reuniting the juvenile with a parent, guardian, or other responsible person. Juveniles 11 years of age or younger are considered juvenile non-offenders even if they have committed an offense that would subject an adult to arrest.

**Juvenile offender** - A juvenile 12 to 17 years of age who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense) (Penal Code § 602). It also includes an offense under Penal Code § 29610 for underage possession of a handgun or concealable firearm (28 CFR 31.303).

**Non-secure custody** - When a juvenile is held in the presence of an officer or other custody employee at all times and is not placed in a locked room, cell, or behind any locked doors. Juveniles in non-secure custody may be handcuffed but not to a stationary or secure object. Personal supervision, through direct visual monitoring and audio two-way communication is maintained. Monitoring through electronic devices, such as video, does not replace direct visual observation (Welfare and Institutions Code § 207.1(d); 15 CCR 1150).

**Safety checks** - Direct, visual observation personally by a member of this department performed at random intervals within time frames prescribed in this policy to provide for the health and welfare of juveniles in temporary custody.

**Secure custody** - When a juvenile offender is held in a locked room, a set of rooms, or a cell. Secure custody also includes being physically secured to a stationary object (15 CCR 1146).

Examples of secure custody include:

- (a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.
- (b) A juvenile handcuffed to a rail.
- (c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.



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- (d) A juvenile being processed in a secure booking area when a non-secure booking area is available.
- (e) A juvenile left alone in a secure booking area after being photographed and fingerprinted.
- (f) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.
- (g) A juvenile placed in a room that is capable of being locked or contains a fixed object designed for cuffing or restricting movement.

**Sight and sound separation** - Located or arranged to prevent physical, visual, or auditory contact.

**Status offender** - A juvenile suspected of committing a criminal violation of the law that would not be a criminal violation but for the age of the offender. Examples may include running away, underage possession of tobacco, curfew violation, and truancy. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender. This includes the habitually disobedient or truant juvenile under Welfare and Institutions Code § 601 and any juvenile suspected of an offense that would not subject an adult to arrest (e.g., fine-only offense).

#### **324.2 POLICY**

The Clovis Police Department is committed to releasing juveniles from temporary custody as soon as reasonably practicable and keeping juveniles safe while they are in temporary custody at the Clovis Police Department. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer, or release.

#### **324.3 JUVENILES WHO SHOULD NOT BE HELD**

Juveniles who exhibit any of the following conditions should not be held at the Clovis Police Department:

- (a) Unconscious
- (b) Seriously injured
- (c) A known suicide risk or obviously severely emotionally disturbed
- (d) Significantly intoxicated except when approved by the Watch Commander. A medical clearance shall be obtained for minors who are under the influence of drugs, alcohol, or any other intoxicating substance to the extent that they are unable to care for themselves (15 CCR 1151).
- (e) Extremely violent or continuously violent

Officers taking custody of a juvenile who exhibits any of the above conditions should take reasonable steps to provide medical attention or mental health assistance and notify a supervisor of the situation (15 CCR 1142; 15 CCR 1151).

These juveniles should not be held at the Clovis Police Department unless they have been evaluated by a qualified medical and/or mental health professional (15 CCR 1142).

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If the officer taking custody of the juvenile believes the juvenile may be a suicide risk, the juvenile shall be under continuous direct supervision until evaluation, release, or a transfer is completed (15 CCR 1142).

#### **324.3.1 EMERGENCY MEDICAL CARE OF JUVENILES IN CUSTODY**

When emergency medical attention is required for a juvenile, medical assistance will be called immediately. The Watch Commander shall be notified of the need for medical attention for the juvenile. Department members should administer first aid as applicable (15 CCR 1142).

#### **324.3.2 SUICIDE PREVENTION OF JUVENILES IN CUSTODY**

Department members should be alert to potential symptoms based upon exhibited behavior that may indicate the juvenile is a suicide risk. These symptoms may include depression, refusal to communicate, verbally threatening to kill him/herself, or any unusual behavior which may indicate the juvenile may harm him/herself while in either secure or non-secure custody (15 CCR 1142).

#### **324.4 CUSTODY OF JUVENILES**

Officers should take custody of a juvenile and temporarily hold the juvenile at the Clovis Police Department when there is no other lawful and practicable alternative to temporary custody. Refer to the Child Abuse Policy for additional information regarding detaining a juvenile that is suspected of being a victim.

No juvenile should be held in temporary custody at the Clovis Police Department without authorization of the arresting officer's supervisor or the Watch Commander. Juveniles taken into custody shall be held in non-secure custody unless otherwise authorized by this policy.

Any juvenile taken into custody shall be released to the care of the juvenile's parent or other responsible adult or transferred to a juvenile custody facility or to other authority as soon as practicable and in no event shall a juvenile be held beyond six hours from the time of his/her entry into the Clovis Police Department (34 USC § 11133; Welfare and Institutions Code § 207.1(d)).

##### **324.4.1 CUSTODY OF JUVENILE NON-OFFENDERS**

Non-offenders taken into protective custody in compliance with the Child Abuse Policy should generally not be held at the Clovis Police Department. Custodial arrangements should be made for non-offenders as soon as reasonably possible. Juvenile non-offenders shall not be held in secure custody (34 USC § 11133; Welfare and Institutions Code § 206).

Juveniles 11 years of age or younger who have committed an offense that would subject an adult to arrest may be held in non-secure custody for the offenses listed in Welfare and Institutions Code § 602(b) (murder and the sexual assault offenses) and should be referred to a probation officer for a placement determination.

##### **324.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS**

Status offenders should generally be released by citation or with a warning rather than taken into temporary custody. However, officers may take custody of a status offender if requested to do so by a parent or legal guardian in order to facilitate reunification (e.g., transported home or to

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the station to await a parent). Juvenile status offenders shall not be held in secure custody (34 USC § 11133).

#### **324.4.3 CUSTODY OF JUVENILE OFFENDERS**

Juvenile offenders should be held in non-secure custody while at the Clovis Police Department unless another form of custody is authorized by this policy or is necessary due to exigent circumstances.

Generally, a juvenile offender may be taken into custody when authorized by a court order or when there is probable cause to believe the juvenile has committed an offense that would subject an adult to arrest (Welfare and Institutions Code § 625).

A juvenile offender who is 14 years of age or older and suspected of using a firearm in violation of Welfare and Institutions Code § 625.3 shall be transported to a juvenile facility.

A juvenile offender suspected of committing murder or a sex offense that may subject a juvenile to criminal jurisdiction under Welfare and Institutions Code § 602(b), or a serious or violent felony should be referred to a probation officer for a decision on further detention.

In all other cases the juvenile offender may be:

- (a) Released upon warning or citation.
- (b) Released to a parent or other responsible adult after processing at the Department.
- (c) Referred to a probation officer for a decision regarding whether to transport the juvenile offender to a juvenile facility.
- (d) Transported to his/her home or to the place where the juvenile offender was taken into custody (Welfare and Institutions Code § 207.2).

In determining which disposition is appropriate, the investigating officer or supervisor shall prefer the alternative that least restricts the juvenile's freedom of movement, provided that alternative is compatible with the best interests of the juvenile and the community (Welfare and Institutions Code § 626).

Whenever a juvenile offender under the age of 14 is taken into custody, the officer should take reasonable steps to verify and document the child's ability to differentiate between right and wrong, particularly in relation to the alleged offense (Penal Code § 26).

#### **324.5 ADVISEMENTS**

Officers shall take immediate steps to notify the juvenile's parent, guardian, or a responsible relative that the juvenile is in custody, the location where the juvenile is being held, and the intended disposition (Welfare and Institutions Code § 627).

Whenever a juvenile is taken into temporary custody, he/she shall be given the *Miranda* rights advisement regardless of whether questioning is intended (Welfare and Institutions Code § 625).

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Anytime a juvenile offender is placed in secure custody, he/she shall be informed of the purpose of the secure custody, the length of time the secure custody is expected to last, and of the maximum six-hour limitation (Welfare and Institutions Code § 207.1(d)).

Juveniles taken into custody for an offense shall immediately be advised (or at least within one hour from being taken into custody, if possible) that they may make three telephone calls: one call completed to his/her parent or guardian; one to a responsible relative or his/her employer; and another call completed to an attorney. The calls shall be at no expense to the juvenile when completed to telephone numbers within the local calling area. Juveniles should be asked whether they are a caregiver and provided two more phone calls in the same manner as provided to adults in the Temporary Custody of Adults Policy (Welfare and Institutions Code § 627; Penal Code § 851.5).

#### **324.6 JUVENILE CUSTODY LOGS**

Any time a juvenile is held in custody at the Department, the custody shall be promptly and properly documented in the juvenile custody log, including:

- (a) Identifying information about the juvenile.
- (b) Date and time of arrival and release from the Clovis Police Department (15 CCR 1150).
- (c) Watch Commander notification and approval to temporarily hold the juvenile.
- (d) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, status offender, or non-offender.
- (e) Any changes in status (e.g., emergency situations, unusual incidents).
- (f) Time of all safety checks.
- (g) Any medical and other screening requested and completed (15 CCR 1142).
- (h) Circumstances that justify any secure custody (Welfare and Institutions Code § 207.1(d); 15 CCR 1145).
- (i) Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

The Watch Commander shall initial the log to approve the custody, including any secure custody, and shall also initial the log when the juvenile is released.

#### **324.7 NO-CONTACT REQUIREMENTS**

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Department (34 USC § 11133; Welfare and Institutions Code § 207.1(d); Welfare and Institutions Code § 208; 15 CCR 1144). There should also be sight and sound separation between non-offenders and juvenile and status offenders.

In situations where brief or accidental contact may occur (e.g., during the brief time a juvenile is being fingerprinted and/or photographed in booking), a member of the Clovis Police Department (trained in the supervision of persons in custody) shall maintain a constant, immediate, side-by-

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side presence with the juvenile or the adult to minimize any contact. If inadvertent or accidental contact does occur, reasonable efforts shall be taken to end the contact (15 CCR 1144).

#### **324.8 TEMPORARY CUSTODY REQUIREMENTS**

Members and supervisors assigned to monitor or process any juvenile at the Clovis Police Department shall ensure the following:

- (a) The Watch Commander should be notified if it is anticipated that a juvenile may need to remain at the Clovis Police Department more than four hours. This will enable the Watch Commander to ensure no juvenile is held at the Clovis Police Department more than six hours.
- (b) A staff member of the same sex shall supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.
- (c) Personal safety checks and significant incidents/activities shall be noted on the log.
- (d) Juveniles in custody are informed that they will be monitored at all times, except when using the toilet.
  - 1. There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware.
  - 2. This does not apply to surreptitious and legally obtained recorded interrogations.
- (e) Juveniles shall have reasonable access to toilets and wash basins (15 CCR 1143).
- (f) Food shall be provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile (15 CCR 1143).
- (g) Juveniles shall have reasonable access to a drinking fountain or water (15 CCR 1143).
- (h) Juveniles shall have reasonable opportunities to stand and stretch, particularly if handcuffed or restrained in any way.
- (i) Juveniles shall have privacy during family, guardian, and/or lawyer visits (15 CCR 1143).
- (j) Juveniles shall be permitted to remain in their personal clothing unless the clothing is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody (15 CCR 1143).
- (k) Blankets shall be provided as reasonably necessary (15 CCR 1143).
  - 1. The supervisor should ensure that there is an adequate supply of clean blankets.
- (l) Adequate shelter, heat, light, and ventilation should be provided without compromising security or enabling escape.
- (m) Juveniles shall have adequate furnishings, including suitable chairs or benches.
- (n) Juveniles shall have the right to the same number of telephone calls as an adult in temporary custody.

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- (o) No discipline may be administered to any juvenile, nor may juveniles be subjected to corporal or unusual punishment, humiliation, or mental abuse (15 CCR 1142).

#### **324.9 USE OF RESTRAINT DEVICES**

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed at the Clovis Police Department when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening (15 CCR 1142).

Other restraints shall only be used after less restrictive measures have failed and with the approval of the Watch Commander. Restraints shall only be used so long as it reasonably appears necessary for the juvenile's protection or the protection of others (15 CCR 1142).

Juveniles in restraints shall be kept away from other unrestrained juveniles or monitored in such a way as to protect the juvenile from abuse (15 CCR 1142).

#### **324.10 PERSONAL PROPERTY**

The officer taking custody of a juvenile offender or status offender at the Clovis Police Department shall ensure a thorough search of the juvenile's property is made and all property is removed from the juvenile, especially those items that could compromise safety, such as pens, pencils, and belts.

The personal property of a juvenile should be placed in a property bag. The property should be inventoried in the juvenile's presence and sealed into the bag. The property should be kept in a monitored or secure location until the juvenile is released from the custody of the Clovis Police Department.

#### **324.11 SECURE CUSTODY**

Only juvenile offenders 14 years of age or older may be placed in secure custody (Welfare and Institutions Code § 207; 15 CCR 1145). Watch Commander approval is required before placing a juvenile offender in secure custody.

Secure custody should only be used for juvenile offenders when there is a reasonable belief that the juvenile is a serious risk of harm to him/herself or others. Factors to be considered when determining if the juvenile offender presents a serious security risk to him/herself or others include the following (15 CCR 1145):

- (a) Age, maturity, and delinquent history
- (b) Severity of offense for which the juvenile was taken into custody
- (c) The juvenile offender's behavior
- (d) Availability of staff to provide adequate supervision or protection of the juvenile offender
- (e) Age, type, and number of other individuals in custody at the facility

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Members of this department shall not use secure custody for convenience when non-secure custody is, or later becomes, a reasonable option (15 CCR 1145).

When practicable and when no locked enclosure is available, handcuffing one hand of a juvenile offender to a fixed object while otherwise maintaining the juvenile in non-secure custody should be considered as the method of secure custody. An employee must be present at all times to ensure the juvenile's safety while secured to a stationary object (15 CCR 1148).

Juveniles shall not be secured to a stationary object for more than 60 minutes. Supervisor approval is required to secure a juvenile to a stationary object for longer than 60 minutes and every 30 minutes thereafter (15 CCR 1148). Supervisor approval should be documented.

The decision for securing a minor to a stationary object for longer than 60 minutes and every 30 minutes thereafter shall be based upon the best interests of the juvenile offender (15 CCR 1148).

#### **324.11.1 LOCKED ENCLOSURES**

A thorough inspection of the area shall be conducted before placing a juvenile into the enclosure. A second inspection shall be conducted after removing the juvenile. Any damage noted to the room should be photographed and documented in the crime report.

The following requirements shall apply to a juvenile offender who is held inside a locked enclosure:

- (a) The juvenile shall constantly be monitored by an audio/video system during the entire custody.
- (b) Juveniles shall have constant auditory access to department members (15 CCR 1147).
- (c) Initial placement into and removal from a locked enclosure shall be logged (Welfare and Institutions Code § 207.1(d)).
- (d) Unscheduled safety checks to provide for the health and welfare of the juvenile by a staff member, no less than once every 15 minutes, shall occur (15 CCR 1147; 15 CCR 1151).
  - 1. All safety checks shall be logged.
  - 2. The safety check should involve questioning the juvenile as to his/her well-being (sleeping juveniles or apparently sleeping juveniles should be awakened).
  - 3. Requests or concerns of the juvenile should be logged.
- (e) Males and females shall not be placed in the same locked room (15 CCR 1147).
- (f) Juvenile offenders should be separated according to severity of the crime (e.g., felony or misdemeanor).
- (g) Restrained juveniles shall not be mixed in a cell or room with unrestrained juveniles.

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#### **324.12 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY OF A JUVENILE**

The Watch Commander will ensure procedures are in place to address the suicide attempt, death, or serious injury of any juvenile held at the Clovis Police Department (15 CCR 1142; 15 CCR 1047). The procedures will address:

- (a) Immediate notification of the on-duty supervisor, Chief of Police, and Investigation Division Supervisor.
- (b) Notification of the parent, guardian, or person standing in loco parentis of the juvenile.
- (c) Notification of the appropriate prosecutor.
- (d) Notification of the City attorney.
- (e) Notification to the coroner.
- (f) Notification of the juvenile court.
- (g) In the case of a death, providing a report to the Attorney General under Government Code § 12525 within 10 calendar days of the death, and forwarding the same report to the Board of State and Community Corrections within the same time frame (15 CCR 1046).
- (h) A medical and operational review of deaths and suicide attempts pursuant to 15 CCR 1046.
- (i) Evidence preservation.

#### **324.13 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS**

No interview or interrogation of a juvenile should occur unless the juvenile has the apparent capacity to consent, and does consent to an interview or interrogation.

Prior to conducting a custodial interrogation, including the waiver of *Miranda* rights, an officer shall permit a juvenile 15 years of age or younger to consult with legal counsel in person, by telephone, or by video conference. The consultation may not be waived by the juvenile. The requirement to consult with legal counsel does not apply when (Welfare and Institutions Code § 625.6):

- (a) Information is necessary to protect life or property from an imminent threat.
- (b) The questions are limited to what is reasonably necessary to obtain the information relating to the threat.

##### **324.13.1 JUVENILE CONTACTS AT SCHOOL FACILITIES**

Absent exigent circumstances, officers should make every reasonable effort to notify responsible school officials prior to contacting a student on campus while school is in session.

- (a) Reasonable efforts should be taken to coordinate with school officials to minimize disruption of school functions and maintain a low profile police presence when contacting a student.
- (b) Whenever circumstances warrant the temporary detention or formal interview of a juvenile student on campus, the officer should:



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1. When practical and when it would not unreasonably interfere with the investigation, take reasonable steps to notify a parent, guardian, or responsible adult, including those phone numbers listed on any contact card on file with the school or provided by the student. All efforts to make contact with parents and/or reasons contact was not attempted should be documented.
2. If efforts to contact a parent, guardian or responsible adult are unsuccessful or not attempted, a formal interview with the juvenile may proceed without them.
3. If contacted, the selected parent, other responsible adult or school official may be permitted to be present during any interview.
  - (a) An adult suspected of child abuse or other criminal activity involving the juvenile, or an adult, who in the opinion of the officer appears to be under the influence or otherwise unable or incompetent to exercise parental rights on behalf of the juvenile, will not be permitted to be present.
  - (b) If the officer reasonably believes that exigent circumstances exist which would materially interfere with the officer's ability to immediately interview the juvenile, the interview may proceed without the parent or other responsible adult. In such circumstances, the exigent circumstances should be set forth in a related report.

#### **324.13.2 MANDATORY RECORDINGS OF JUVENILES**

Any interrogation of an individual under 18 years of age who is in custody and suspected of committing murder shall be audio and video recorded when the interview takes place at a department facility, jail, detention facility, or other fixed place of detention. The recording shall include the entire interview and a *Miranda* advisement preceding the interrogation (Penal Code § 859.5).

This recording is not mandatory when (Penal Code § 859.5):

- (a) Recording is not feasible because of exigent circumstances that are later documented in a report.
- (b) The individual refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.
- (c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.
- (d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.

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- (e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an officer, the individual being interrogated, or another individual. Such circumstances shall be documented in a report.
- (f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.
- (g) The questions are part of a routine processing or booking, and are not an interrogation.
- (h) The suspect is in custody for murder and the interrogation is unrelated to a murder. However, if any information concerning a murder is mentioned during the interrogation, the remainder of the interrogation shall be recorded.

These recordings shall be retained until a conviction is final and all direct and habeas corpus appeals are exhausted, a court no longer has any jurisdiction over the individual, or the prosecution for that offense is barred (Penal Code § 859.5; Welfare and Institutions Code § 626.8).

#### **324.14 FORMAL BOOKING**

No juvenile offender shall be formally booked without the authorization of the arresting officer's supervisor, or in his/her absence, the Watch Commander.

Any juvenile 14 years of age or older who is taken into custody for a felony, or any juvenile whose acts amount to a sex crime, shall be booked, fingerprinted, and photographed.

For all other acts defined as crimes, juveniles may be booked, fingerprinted or photographed upon the approval from the Watch Commander or Investigations supervisor, giving due consideration to the following:

- (a) The gravity of the offense
- (b) The past record of the offender
- (c) The age of the offender

#### **324.15 RELEASE OF INFORMATION CONCERNING JUVENILES**

Court decisions and legislation have combined to carefully specify situations in which information may be given out or exchanged when a case involves a juvenile. Members of this department shall not divulge any information regarding juveniles unless they are certain of the legal authority to do so.

A copy of the current policy of the juvenile court concerning authorized release of information and appropriate acknowledgment forms shall be kept with copies of this procedure in the Clovis Police Department Policy Manual. Such releases are authorized by Welfare and Institutions Code § 827.

Welfare and Institutions Code § 828 authorizes the release of certain information to other agencies. It shall be the responsibility of the Records Supervisor and the appropriate Investigations supervisors to ensure that personnel of those bureaus act within legal guidelines.

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#### **324.16 BOARD OF STATE AND COMMUNITY CORRECTIONS CERTIFICATION**

The Patrol Division Commander shall coordinate the procedures related to the custody of juveniles held at the Clovis Police Department and ensure any required certification is maintained (Welfare and Institution Code § 210.2).

#### **324.17 DISCIPLINE OF JUVENILES**

Police personnel are prohibited from administering discipline to any juvenile.

#### **324.18 RELIGIOUS ACCOMMODATION**

Juveniles have the right to the same religious accommodation as adults in temporary custody (see the Temporary Custody of Adults Policy).

## Adult Abuse

### 326.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation and reporting of suspected abuse of certain adults who may be more vulnerable than others. This policy also addresses mandatory notification for Clovis Police Department members as required by law.

#### 326.1.1 DEFINITIONS

Definitions related to this policy include:

**Adult abuse** - Any offense or attempted offense involving violence or neglect of an adult victim when committed by a person responsible for the adult's care, or any other act that would mandate reporting or notification to a social service agency or law enforcement (Penal Code § 368).

**Abuse of an elder (age 65 or older) or dependent adult** - Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering; or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering. Neglect includes self-neglect (Welfare and Institutions Code § 15610.07; Penal Code § 368.5).

### 326.2 POLICY

The Clovis Police Department will investigate all reported incidents of alleged adult abuse and ensure proper reporting and notification as required by law.

### 326.3 INVESTIGATIONS AND REPORTING

All reported or suspected cases of adult abuse require investigation and a report, even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of adult abuse should address, as applicable:

- (a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected adult abuse victim is contacted.
- (b) Any relevant statements the victim may have made and to whom he/she made the statements.
- (c) If a person is taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (d) Documentation of any visible injuries or any injuries identified by the victim. This should include photographs of such injuries, if practicable.
- (e) Whether the victim was transported for medical treatment or a medical examination.
- (f) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence.

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- (g) Identification of any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known.
- (h) Previous addresses of the victim and suspect.
- (i) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.
- (j) Results of investigations shall be provided to those agencies (Adult Protective Services (APS), long-term ombudsman) that referred or reported the adult abuse (Welfare and Institutions Code § 15640(f)).
- (k) Whether a death involved the End of Life Option Act:
  - 1. Whether or not assistance was provided to the person beyond that allowed by law (Health and Safety Code § 443.14)
  - 2. Whether an individual knowingly altered or forged a request for an aid-in-dying drug to end a person's life without his/her authorization, or concealed or destroyed a withdrawal or rescission of a request for an aid-in-dying drug (Health and Safety Code § 443.17)
  - 3. Whether coercion or undue influence was exerted on the person to request or ingest an aid-in-dying drug or to destroy a withdrawal or rescission of a request for such medication (Health and Safety Code § 443.17)
  - 4. Whether an aid-in-dying drug was administered to a person without his/her knowledge or consent (Health and Safety Code § 443.17).

Any unexplained death of an adult who was in the care of a guardian or caretaker should be considered as potential adult abuse and investigated similarly.

### **326.4 QUALIFIED INVESTIGATORS**

Qualified investigators should be available to investigate cases of adult abuse. These investigators should:

- (a) Conduct interviews in appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to adult abuse investigations.
- (c) Present all cases of alleged adult abuse to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and facility administrators as needed.
- (e) Provide referrals to therapy services, victim advocates, guardians and support for the victim and family as appropriate.
- (f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 15610.55).

### **326.5 MANDATORY NOTIFICATION**

Members of the Clovis Police Department shall notify the local office of the California Department of Social Services (CDSS) APS agency when they reasonably suspect, have observed, or have

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knowledge of an incident that reasonably appears to be abuse of an elder (age 65 or older) or dependent adult, or are told by an elder or dependent adult that he/she has experienced abuse (Welfare and Institutions Code § 15630(b)).

Notification shall be made by telephone as soon as practicable and a written report shall be provided within two working days as provided in Welfare and Institutions Code § 15630(b)(c)).

A dependent adult is an individual, regardless of whether the individual lives independently, between 18 and 64 years of age who has physical or mental limitations that restrict his/her ability to carry out normal activities or to protect his/her rights, including but not limited to persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. This also includes those admitted as inpatients to a 24-hour health facility, as defined in state law (Welfare and Institutions Code § 15610.23).

Notification shall also be made to the following agencies as soon as practicable or as provided below (Welfare and Institutions Code § 15630):

- (a) If the abuse is physical abuse and occurred in a long-term care facility (not a state mental health hospital or a state developmental center) notification shall be made as follows (Welfare and Institutions Code § 15630(b)(1)):
  - 1. If there is serious bodily injury, notification shall be made by telephone and, within two hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.
  - 2. If there is physical abuse and no serious bodily injury, notification shall be made by telephone and, within 24 hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.
  - 3. If the abuse is allegedly caused by a resident with dementia and there is no serious bodily injury, notification shall be made by telephone and a written report to the local ombudsman within 24 hours.
  - 4. When a report of abuse is received by the Department, the local ombudsman shall be called to coordinate efforts to provide the most immediate and appropriate response (Welfare and Institutions Code § 15630(b)).
- (b) If the abuse is in a long-term care facility (not a state mental health or a state developmental center) and is other than physical abuse, a telephone report and a written report shall be made to the local ombudsman as soon as practicable (Welfare and Institutions Code § 15630(b)).
- (c) The California Department of Public Health (DPH) shall be notified of all known or suspected abuse in a long-term care facility.
- (d) The SDSS shall be notified of all known or suspected abuse occurring in a residential care facility for the elderly or in an adult day program.
- (e) If the abuse occurred in an adult day health care center, DPH and the California Department of Aging shall be notified.
- (f) The Bureau of Medi-Cal Fraud and Elder Abuse shall be notified of all abuse that constitutes criminal activity in a long-term care facility.

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- (g) The District Attorney's office shall be notified of all cases of physical abuse and financial abuse in a long-term care facility.
- (h) If the abuse occurred at a state mental hospital or a state developmental center, notification shall be made to the designated investigators of the California Department of State Hospitals or the California Department of Developmental Services as soon as practicable but no later than two hours after law enforcement becomes aware of the abuse (Welfare and Institutions Code § 15630(b)).
  - 1. When a report of abuse is received by the Department, investigation efforts shall be coordinated with the designated investigators of the California Department of State Hospitals or the California Department of Developmental Services (Welfare and Institutions Code § 15630(b)).
- (i) If during an investigation it is determined that the adult abuse is being committed by a licensed health practitioner as identified in Welfare and Institutions Code § 15640(b), the appropriate licensing agency shall be immediately notified (Welfare and Institutions Code § 15640(b)).
- (j) When the Department receives a report of abuse, neglect or abandonment of an elder or dependent adult alleged to have occurred in a long-term care facility, the licensing agency shall be notified by telephone as soon as practicable (Welfare and Institutions Code § 15640(e)).

The Investigations supervisor is responsible for ensuring that proper notifications have occurred to the District Attorney's Office and any other regulatory agency that may be applicable based upon where the abuse took place (e.g., care facility, hospital) per Welfare and Institutions Code § 15630(b).

Notification is not required for a person who was merely present when a person self-administered a prescribed aid-in-dying drug or a person prepared an aid-in-dying drug so long as the person did not assist the individual in ingesting the aid-in-dying drug (Health and Safety Code § 443.14; Health and Safety Code § 443.18).

#### 326.5.1 NOTIFICATION PROCEDURE

Notification should include the following information, if known (Welfare and Institutions Code § 15630(e)):

- (a) The name of the person making the report.
- (b) The name and age of the elder or dependent adult.
- (c) The present location of the elder or dependent adult.
- (d) The names and addresses of family members or any other adult responsible for the care of the elder or dependent adult.
- (e) The nature and extent of the condition of the elder or dependent adult.
- (f) The date of incident.
- (g) Any other information, including information that led the person to suspect elder or dependent adult abuse.

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### **326.6 PROTECTIVE CUSTODY**

Before taking an adult abuse victim into protective custody when facts indicate the adult may not be able to care for him/herself, the officer should make reasonable attempts to contact APS. Generally, removal of an adult abuse victim from his/her family, guardian or other responsible adult should be left to the welfare authorities when they are present or have become involved in an investigation.

Generally, members of this department should remove an adult abuse victim from his/her family or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the victim. Prior to taking an adult abuse victim into protective custody, the officer should take reasonable steps to deliver the adult to another qualified legal guardian, unless it reasonably appears that the release would endanger the victim or result in abduction. If this is not a reasonable option, the officer shall ensure that the adult is delivered to APS.

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking an adult abuse victim into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking the adult into protective custody.

When adult abuse victims are under state control, have a state-appointed guardian or there are other legal holdings for guardianship, it may be necessary or reasonable to seek a court order on behalf of the adult victim to either remove the adult from a dangerous environment (protective custody) or restrain a person from contact with the adult.

#### **326.6.1 EMERGENCY PROTECTIVE ORDERS**

In any situation which an officer reasonably believes that an elder or dependent adult is in immediate and present danger of abuse based on an allegation of a recent incident of abuse or threat of abuse (other than financial abuse alone), the officer may seek an emergency protective order against the person alleged to have committed or threatened such abuse (Family Code § 6250(d)).

### **326.7 INTERVIEWS**

#### **326.7.1 PRELIMINARY INTERVIEWS**

Absent extenuating circumstances or impracticality, officers should audio record the preliminary interview with a suspected adult abuse victim. Officers should avoid multiple interviews with the victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available.

#### **326.7.2 DETAINING VICTIMS FOR INTERVIEWS**

An officer should not detain an adult involuntarily who is suspected of being a victim of abuse solely for the purpose of an interview or physical exam without his/her consent or the consent of a guardian unless one of the following applies:



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- (a) Exigent circumstances exist, such as:
  - 1. A reasonable belief that medical issues of the adult need to be addressed immediately.
  - 2. A reasonable belief that the adult is or will be in danger of harm if the interview or physical exam is not immediately completed.
  - 3. The alleged offender is a family member or guardian and there is reason to believe the adult may be in continued danger.
- (b) A court order or warrant has been issued.

### **326.8 MEDICAL EXAMINATIONS**

When an adult abuse investigation requires a medical examination, the investigating officer should obtain consent for such examination from the victim, guardian, agency or entity having legal custody of the adult. The officer should also arrange for the adult's transportation to the appropriate medical facility.

In cases where the alleged offender is a family member, guardian, agency or entity having legal custody and is refusing to give consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the adult for a medical examination, the supervisor should consider other government agencies or services that may obtain a court order for such an examination.

### **326.9 DRUG-ENDANGERED VICTIMS**

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of an adult abuse victim who has been exposed to the manufacturing, trafficking or use of narcotics.

#### **326.9.1 OFFICER RESPONSIBILITIES**

Officers responding to a drug lab or other narcotics crime scene where an adult abuse victim is present or where there is evidence that an adult abuse victim lives should:

- (a) Document the environmental, medical, social and other conditions of the adult, using photography as appropriate and the checklist or form developed for this purpose.
- (b) Notify the Investigations supervisor so an interagency response can begin.

#### **326.9.2 SUPERVISOR RESPONSIBILITIES**

The Investigations supervisor should:

- (a) Work with professionals from the appropriate agencies, including APS, other law enforcement agencies, medical service providers and local prosecutors, to develop community specific procedures for responding to situations where there are adult abuse victims endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.
- (b) Activate any available interagency response when an officer notifies the Investigations supervisor that he/she has responded to a drug lab or other narcotics crime scene

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where an adult abuse victim is present or where evidence indicates that an adult abuse victim lives.

- (c) Develop a report format or checklist for use when officers respond to drug labs or other narcotics crime scenes. The checklist will help officers document the environmental, medical, social and other conditions that may affect the adult.

### **326.10 TRAINING**

The Department should provide training on best practices in adult abuse investigations to members tasked with investigating these cases. The training should include:

- (a) Participating in multidisciplinary investigations, as appropriate.
- (b) Conducting interviews.
- (c) Availability of therapy services for adults and families.
- (d) Availability of specialized forensic medical exams.
- (e) Cultural competence (including interpretive services) related to adult abuse investigations.
- (f) Availability of victim advocates or other support.

### **326.11 RECORDS BUREAU RESPONSIBILITIES**

The Records and Public Services is responsible for:

- (a) Providing a copy of the adult abuse report to the APS, ombudsman or other agency as applicable within two working days or as required by law (Welfare and Institutions Code § 15630; Welfare and Institutions Code § 15640(c)).
- (b) Retaining the original adult abuse report with the initial case file.

### **326.12 JURISDICTION**

The Clovis Police Department has concurrent jurisdiction with state law enforcement agencies when investigating elder and dependent adult abuse and all other crimes against elder victims and victims with disabilities (Penal Code § 368.5).

Adult protective services agencies and local long-term care ombudsman programs also have jurisdiction within their statutory authority to investigate elder and dependent adult abuse and criminal neglect and may assist in criminal investigations upon request in such cases. However, this department will retain responsibility for the criminal investigations (Penal Code § 368.5).

### **326.13 RELEVANT STATUTES**

#### **Penal Code § 368 (c)**

Any person who knows or reasonably should know that a person is an elder or dependent adult and who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or

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dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health may be endangered, is guilty of a misdemeanor.

### **Penal Code § 368 (f)**

(f) A person who commits the false imprisonment of an elder or a dependent adult by the use of violence, menace, fraud, or deceit is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.

### **Welfare and Institutions Code § 15610.05**

"Abandonment" means the desertion or willful forsaking of an elder or a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

### **Welfare and Institutions Code § 15610.06**

"Abduction" means the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, of any elder or dependent adult who does not have the capacity to consent to the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, as well as the removal from this state or the restraint from returning to this state, of any conservatee without the consent of the conservator or the court.

### **Welfare and Institutions Code § 15610.30**

(a) "Financial abuse" of an elder or dependent adult occurs when a person or entity does any of the following:

- (1) Takes, secretes, appropriates, obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
- (2) Assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
- (3) Takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an elder or dependent adult by undue influence, as defined in Section 15610.70.

(b) A person or entity shall be deemed to have taken, secreted, appropriated, obtained, or retained property for a wrongful use if, among other things, the person or entity takes, secretes, appropriates, obtains, or retains the property and the person or entity knew or should have known that this conduct is likely to be harmful to the elder or dependent adult.

(c) For purposes of this section, a person or entity takes, secretes, appropriates, obtains, or retains real or personal property when an elder or dependent adult is deprived of any property right, including by means of an agreement, donative transfer, or testamentary bequest, regardless of whether the property is held directly or by a representative of an elder or dependent adult.

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(d) For purposes of this section, "representative" means a person or entity that is either of the following:

- (1) A conservator, trustee, or other representative of the estate of an elder or dependent adult.
- (2) An attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney.

**Welfare and Institutions Code § 15610.43**

(a) "Isolation" means any of the following:

- (1) Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls.
- (2) Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons.
- (3) False imprisonment, as defined in Section 236 of the Penal Code.
- (4) Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors.

(b) The acts set forth in subdivision (a) shall be subject to a rebuttable presumption that they do not constitute isolation if they are performed pursuant to the instructions of a physician and surgeon licensed to practice medicine in the state, who is caring for the elder or dependent adult at the time the instructions are given, and who gives the instructions as part of his or her medical care.

(c) The acts set forth in subdivision (a) shall not constitute isolation if they are performed in response to a reasonably perceived threat of danger to property or physical safe

**Welfare and Institutions Code § 15610.57**

(a) "Neglect" means either of the following:

- (1) The negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care that a reasonable person in a like position would exercise.
- (2) The negligent failure of an elder or dependent adult to exercise that degree of self care that a reasonable person in a like position would exercise.

(b) Neglect includes, but is not limited to, all of the following:

- (1) Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.
- (2) Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.

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- (3) Failure to protect from health and safety hazards.
- (4) Failure to prevent malnutrition or dehydration.
- (5) Failure of an elder or dependent adult to satisfy the needs specified in paragraphs (1) to (4), inclusive, for himself or herself as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health.

#### **Welfare and Institutions Code § 15610.63**

15610.63. "Physical abuse" means any of the following:

- (a) Assault, as defined in Section 240 of the Penal Code.
- (b) Battery, as defined in Section 242 of the Penal Code.
- (c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code.
- (d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.
- (e) Sexual assault, that means any of the following:
  - (1) Sexual battery, as defined in Section 243.4 of the Penal Code.
  - (2) Rape, as defined in Section 261 of the Penal Code.
  - (3) Rape in concert, as described in Section 264.1 of the Penal Code.
  - (4) Spousal rape, as defined in Section 262 of the Penal Code.
  - (5) Incest, as defined in Section 285 of the Penal Code.
  - (6) Sodomy, as defined in Section 286 of the Penal Code.
  - (7) Oral copulation, as defined in Section 287 or former Section 288a of the Penal Code.
  - (8) Sexual penetration, as defined in Section 289 of the Penal Code.
  - (9) Lewd or lascivious acts as defined in paragraph (2) of subdivision (b) of Section 288 of the Penal Code.
- (f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:
  - (1) For punishment.
  - (2) For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.
  - (3) For any purpose not authorized by the physician and surgeon.

## **Discriminatory Harassment**

### **328.1 PURPOSE AND SCOPE**

The purpose of this policy is to prevent department members from being subjected to discriminatory harassment, including sexual harassment and retaliation. Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

### **328.2 POLICY**

The Clovis Police Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation (Government Code § 12940(k); 2 CCR 11023). The Department will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights it is designed to protect.

The nondiscrimination policies of the Department may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline.

### **328.3 DEFINITIONS**

Definitions related to this policy include:

#### **328.3.1 DISCRIMINATION**

The Department prohibits all forms of discrimination, including any employment-related action by a member that adversely affects an applicant or member and is based on the actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status and other classifications protected by law.

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment, can include making derogatory comments, crude and offensive statements or remarks; making slurs or off-color jokes, stereotyping; engaging in threatening acts; making indecent gestures, pictures, cartoons, posters or material; making inappropriate physical contact; or using written material or department equipment and/or systems to transmit or receive offensive material, statements or pictures. Such conduct is contrary to department policy and to a work environment that is free of discrimination.

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### **328.3.2 SEXUAL HARASSMENT**

The Department prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or a member because of that person's sex.

Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors or other verbal, visual or physical conduct of a sexual nature when:

- (a) Submission to such conduct is made either explicitly or implicitly a term or condition of employment, position or compensation.
- (b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.
- (c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

### **328.3.3 ADDITIONAL CONSIDERATIONS**

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles or standards, including:

- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission (EEOC) and the California Fair Employment and Housing Council guidelines.
- (b) Bona fide requests or demands by a supervisor that a member improve his/her work quality or output, that the member report to the job site on time, that the member comply with City or department rules or regulations, or any other appropriate work-related communication between supervisor and member.

### **328.3.4 RETALIATION**

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because he/she has engaged in protected activity, filed a charge of discrimination, participated in an investigation or opposed a discriminatory practice. Retaliation will not be tolerated.

## **328.4 RESPONSIBILITIES**

This policy applies to all department personnel. All members shall follow the intent of these guidelines in a manner that reflects department policy, professional law enforcement standards and the best interest of the Department and its mission.

Members are encouraged to promptly report any discriminatory, retaliatory or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to his/her immediate supervisor may bypass the chain of command and make the report to a higher-ranking supervisor or manager. Complaints may also be filed with the Chief of Police, the Personnel Risk Manager or the City Manager.

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Any member who believes, in good faith, that he/she has been discriminated against, harassed or subjected to retaliation, or who has observed harassment or discrimination, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

Supervisors and managers receiving information regarding alleged violations of this policy shall determine if there is any basis for the allegation and shall proceed with resolution as stated below.

#### **328.4.1 SUPERVISOR RESPONSIBILITIES**

The responsibilities of each supervisor and manager shall include, but are not limited to:

- (a) Continually monitoring the work environment and striving to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
- (b) Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment or retaliation.
- (c) Ensuring that his/her subordinates understand their responsibilities under this policy.
- (d) Ensuring that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- (e) Making a timely determination regarding the substance of any allegation based upon all available facts.
- (f) Notifying the Chief of Police or Personnel Risk Manager in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment or retaliation no later than the next business day.

#### **328.4.2 SUPERVISOR'S ROLE**

Because of differences in individual values, supervisors and managers may find it difficult to recognize that their behavior or the behavior of others is discriminatory, harassing or retaliatory. Supervisors and managers shall be aware of the following considerations:

- (a) Behavior of supervisors and managers should represent the values of the Department and professional law enforcement standards.
- (b) False or mistaken accusations of discrimination, harassment or retaliation can have negative effects on the careers of innocent members.

Nothing in this section shall be construed to prevent supervisors or managers from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling members or issuing discipline, in a manner that is consistent with established procedures.

#### **328.4.3 QUESTIONS OR CLARIFICATION**

Members with questions regarding what constitutes discrimination, sexual harassment or retaliation are encouraged to contact a supervisor, a manager, the Chief of Police, the Personnel Risk Manager, the City Manager or the California Department of Fair Employment and Housing for further information, direction or clarification.



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#### **328.5 INVESTIGATION OF COMPLAINTS**

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the Department that all complaints of discrimination, retaliation or harassment shall be fully documented and promptly and thoroughly investigated.

##### **328.5.1 SUPERVISORY RESOLUTION**

Members who believe they are experiencing discrimination, harassment or retaliation should be encouraged to inform the individual that his/her behavior is unwelcome, offensive, unprofessional or inappropriate. However, if the member feels uncomfortable or threatened or has difficulty expressing his/her concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor.

##### **328.5.2 FORMAL INVESTIGATION**

If the complaint cannot be satisfactorily resolved through the process described above, a formal investigation will be conducted.

The person assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint or for offering testimony or evidence in any investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include, but is not limited to, details of the specific incident, frequency and dates of occurrences and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.

Members who believe they have been discriminated against, harassed or retaliated against because of their protected status, are encouraged to follow the chain of command but may also file a complaint directly with the Chief of Police, Personnel Risk Manager or the City Manager.

##### **328.5.3 ALTERNATIVE COMPLAINT PROCESS**

No provision of this policy shall be construed to prevent any member from seeking legal redress outside the Department. Members who believe that they have been harassed, discriminated or retaliated against are entitled to bring complaints of employment discrimination to federal, state and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Members are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

#### **328.6 DOCUMENTATION OF COMPLAINTS**

All complaints or allegations shall be thoroughly documented on forms and in a manner designated by the Chief of Police. The outcome of all reports shall be:

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- Approved by the Chief of Police, the City Manager or the Personnel Risk Manager, depending on the ranks of the involved parties.
- Maintained in accordance with the department's established records retention schedule.

#### **328.6.1 NOTIFICATION OF DISPOSITION**

The complainant and/or victim will be notified in writing of the disposition of the investigation and the actions taken to remedy or address the circumstances giving rise to the complaint.

#### **328.7 TRAINING**

All new members shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new member. The member shall certify by signing the prescribed form that he/she has been advised of this policy, is aware of and understands its contents and agrees to abide by its provisions during his/her term with the Department.

All members shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents and agree that they will continue to abide by its provisions.

##### **328.7.1 SUPERVISOR TRAINING**

All supervisors shall receive specific training and education regarding sexual harassment, prevention of abusive conduct and harassment based on gender identity, gender expression and sexual orientation within six months of assuming a supervisory position. Refresher training shall be provided every two years thereafter (Government Code § 12950.1; 2 CCR 11024).

##### **328.7.2 TRAINING RECORDS**

The Training Coordinator shall be responsible for maintaining records of all discriminatory harassment training provided to members. Records shall be retained in accordance with established records retention schedules and for a minimum of two years (2 CCR 11024).

#### **328.8 WORKING CONDITIONS**

The Administration Division Commander or the authorized designee should be responsible for reviewing facility design and working conditions for discriminatory practices. This person should collaborate with other City employees who are similarly tasked (2 CCR 11034).

#### **328.9 REQUIRED POSTERS**

The Department shall display the required posters regarding discrimination, harassment and transgender rights in a prominent and accessible location for members (Government Code § 12950).

## Child Abuse

### 330.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Clovis Police Department members are required to notify the county Child Protective Services (CPS) of suspected child abuse.

#### 330.1.1 DEFINITIONS

Definitions related to this policy include:

**Child** - Unless otherwise specified by a cited statute, a child is any person under the age of 18 years.

**Child abuse** - Any offense or attempted offense involving violence or neglect with a child victim when committed by a person responsible for the child's care or any other act that would mandate notification to a social service agency or law enforcement (Penal Code § 11165.9; Penal Code § 11166).

**Child abuse or neglect** - Includes the following (Penal Code § 11165.6):

- Physical injury or death inflicted by other than accidental means upon a child by another person.
- Sexual abuse as defined in Penal Code § 11165.1
- Neglect as defined in Penal Code § 11165.2
- The willful harming or injuring of a child or the endangering of the person or health of a child, as defined in Penal Code § 11165.3
- Unlawful corporal punishment or injury as defined in Penal Code § 11165.4

Child abuse or neglect does not include an altercation between minors. Child abuse or neglect does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his/her employment as a peace officer.

**Child protective agency** - A police or sheriff's department, a county probation department or a county welfare department. This section does not include school district police or security department.

### 330.2 POLICY

The Clovis Police Department will investigate all reported incidents of alleged criminal child abuse and ensure CPS is notified as required by law.

### 330.3 MANDATORY NOTIFICATION

The child protection agency shall be notified when (Penal Code § 11166):

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- (a) There is a known or suspected instance of child abuse or neglect reported, which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or
- (b) A person responsible for the child's welfare fails to adequately protect the child from abuse when the person knew or reasonably should have known that the child was in danger of abuse.

The District Attorney's office shall be notified in all instances of known or suspected child abuse or neglect reported to this department. Reports only involving neglect by a person, who has the care or custody of a child, to provide adequate food, clothing, shelter, medical care or supervision where no physical injury to the child has occurred should not be reported to the District Attorney (Penal Code § 11166).

When the abuse or neglect occurs at a licensed facility or is alleged to have resulted from the actions of a person who is required to have a state license (e.g., foster homes, group homes, day care), notification shall also be made to the California Department of Social Services or other applicable licensing authority (Penal Code 11166.1; Penal Code 11166.2).

For purposes of notification, the abuse or neglect includes physical injury or death inflicted by other than accidental means upon a child by another person; sexual abuse (Penal Code § 11165.1); neglect (Penal Code § 11165.2); the willful harming or injuring of a child or the endangering of the person or health of a child (Penal Code § 11165.3); and unlawful corporal punishment or injury (Penal Code § 11165.4). Child abuse or neglect does not include a mutual affray between minors, nor does it include an injury caused by the reasonable and necessary force used by a peace officer acting within the course and scope of his/her employment as a peace officer.

#### **330.3.1 NOTIFICATION PROCEDURE**

Notification should occur as follows (Penal Code § 11166):

- (a) Notification shall be made immediately, or as soon as practicable, by telephone, fax or electronic transmission.
- (b) A written follow-up report should be forwarded within 36 hours of receiving the information concerning the incident.

#### **330.4 QUALIFIED INVESTIGATORS**

Qualified investigators should be available for child abuse investigations. These investigators should:

- (a) Conduct interviews in child appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to child abuse investigations.
- (c) Present all cases of alleged child abuse to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and school administrators as needed.

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- (e) Provide referrals to therapy services, victim advocates, guardians and support for the child and family as appropriate.
- (f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 18961.7).

#### **330.5 INVESTIGATIONS AND REPORTING**

In all reported or suspected cases of child abuse, a report will be written. Officers shall write a report even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of child abuse should address, as applicable:

- (a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected child abuse victim was contacted.
- (b) The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.
- (c) Any relevant statements the child may have made and to whom he/she made the statements.
- (d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.
- (f) Whether the child victim was transported for medical treatment or a medical examination.
- (g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.
- (h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.
- (i) Previous addresses of the victim and suspect.
- (j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

All cases of the unexplained death of a child should be investigated as thoroughly as if it had been a case of suspected child abuse (e.g., a sudden or unexplained death of an infant).

##### **330.5.1 EXTRA JURISDICTIONAL REPORTS**

If a report of known or suspected child abuse or neglect that is alleged to have occurred outside this jurisdiction is received, department members shall ensure that the caller is immediately transferred to the agency with proper jurisdiction for the investigation of the case. If the caller cannot be successfully transferred to the appropriate agency, a report shall be taken and immediately

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referred by telephone, fax or electronic transfer to the agency with proper jurisdiction (Penal Code 11165.9).

### **330.6 PROTECTIVE CUSTODY**

Before taking any child into protective custody, the officer should make reasonable attempts to contact CPS. Generally, removal of a child from his/her family, guardian or other responsible adult should be left to the child welfare authorities when they are present or have become involved in an investigation.

Generally, members of this department should remove a child from his/her parent or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the child. Prior to taking a child into protective custody, the officer should take reasonable steps to deliver the child to another qualified parent or legal guardian, unless it reasonably appears that the release would endanger the child or result in abduction. If this is not a reasonable option, the officer shall ensure that the child is delivered to CPS.

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking a child into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking a child into protective custody.

Children may only be removed from a parent or guardian in the following situations when a court order cannot reasonably be obtained in a timely manner (Welfare and Institutions Code § 305):

- (a) The officer reasonably believes the child is a person described in Welfare and Institutions Code § 300, or a commercially exploited child under Penal Code § 647 and Penal Code § 653.22, and further has good cause to believe that any of the following conditions exist:
  - 1. The child has an immediate need for medical care.
  - 2. The child is in immediate danger of physical or sexual abuse.
  - 3. The physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety. In the case of a child left unattended, the officer shall first attempt to locate and determine if a responsible parent or guardian is available and capable of assuming custody before taking the child into protective custody.
- (b) The officer reasonably believes the child requires protective custody under the provisions of Penal Code § 279.6, in one of the following circumstances:
  - 1. It reasonably appears to the officer that a person is likely to conceal the child, flee the jurisdiction with the child or, by flight or concealment, evade the authority of the court.
  - 2. There is no lawful custodian available to take custody of the child.

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3. There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.
  4. The child is an abducted child.
- (c) The child is in the company of, or under the control of, a person arrested for Penal Code § 278 (Detainment or concealment of child from legal custodian) or Penal Code § 278.5 (Deprivation of custody of a child or right to visitation) (Penal Code § 279.6).

A child taken into protective custody shall be delivered to CPS unless otherwise directed by court order.

#### **330.6.1 CALIFORNIA SAFELY SURRENDERED BABY LAW**

An individual having lawful custody of an infant less than 72 hours old is not guilty of abandonment if the individual voluntarily surrenders physical custody of the infant to personnel on-duty at a safe-surrender site, such as a hospital or fire department (Penal Code § 271.5). The law requires the surrender site to notify CPS.

#### **330.6.2 NEWBORNS TESTING POSITIVE FOR DRUGS**

Under certain circumstances, officers can be prohibited from taking a newborn who is the subject of a proposed adoption into protective custody, even when the newborn has tested positive for illegal drugs or the birth mother tested positive for illegal drugs.

Officers shall instead follow the provisions of Welfare and Institutions Code § 305.6 to ensure that the newborn is placed with the adoptive parents when it is appropriate.

### **330.7 INTERVIEWS**

#### **330.7.1 PRELIMINARY INTERVIEWS**

Absent extenuating circumstances or impracticality, officers should record the preliminary interview with suspected child abuse victims. Officers should avoid multiple interviews with a child victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available. Generally, child victims should not be interviewed in the home or location where the alleged abuse occurred.

#### **330.7.2 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW**

An officer should not detain a child involuntarily who is suspected of being a victim of child abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian unless one of the following applies:

- (a) Exigent circumstances exist, such as:
  1. A reasonable belief that medical issues of the child need to be addressed immediately.

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2. A reasonable belief that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.
3. The alleged offender is the custodial parent or guardian and there is reason to believe the child may be in continued danger.

- (b) A court order or warrant has been issued.

### **330.7.3 INTERVIEWS AT A SCHOOL**

Any student at school who is a suspected victim of child abuse shall be afforded the option of being interviewed in private or selecting any qualified available adult member of the school staff to be present. The purpose of the staff member's presence is to provide comfort and support. The staff member shall not participate in the interview. The selection of a staff member should be such that it does not burden the school with costs or hardship (Penal Code § 11174.3).

### **330.8 MEDICAL EXAMINATIONS**

If the child has been the victim of abuse that requires a medical examination, the investigating officer should obtain consent for such examination from the appropriate parent, guardian or agency having legal custody of the child. The officer should also arrange for the child's transportation to the appropriate medical facility.

In cases where the alleged offender is the custodial parent or guardian and is refusing consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the child for a medical examination, the notified supervisor should consider obtaining a court order for such an examination.

### **330.9 DRUG-ENDANGERED CHILDREN**

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of children exposed to the manufacturing, trafficking or use of narcotics.

#### **330.9.1 SUPERVISOR RESPONSIBILITIES**

The Investigations supervisor should:

- (a) Work with professionals from the appropriate agencies, including CPS, other law enforcement agencies, medical service providers and local prosecutors to develop community specific procedures for responding to situations where there are children endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.
- (b) Activate any available interagency response when an officer notifies the Investigations supervisor that the officer has responded to a drug lab or other narcotics crime scene where a child is present or where evidence indicates that a child lives there.



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#### **330.9.2 OFFICER RESPONSIBILITIES**

Officers responding to a drug lab or other narcotics crime scene where a child is present or where there is evidence that a child lives should:

- (a) Document the environmental, medical, social and other conditions of the child using photography as appropriate and the checklist or form developed for this purpose.
- (b) Notify the Investigations supervisor so an interagency response can begin.

#### **330.10 STATE MANDATES AND OTHER RELEVANT LAWS**

California requires or permits the following:

##### **330.10.1 RELEASE OF REPORTS**

Information related to incidents of child abuse or suspected child abuse shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy (Penal Code 841.5; Penal Code § 11167.5).

##### **330.10.2 REQUESTS FOR REMOVAL FROM THE CHILD ABUSE CENTRAL INDEX (CACI)**

Any person whose name has been forwarded to the California Department of Justice (DOJ) for placement in California's CACI, as a result of an investigation, may request that his/her name be removed from the CACI list. Requests shall not qualify for consideration if there is an active case, ongoing investigation or pending prosecution that precipitated the entry to CACI (Penal Code § 11169). All requests for removal shall be submitted in writing by the requesting person and promptly routed to the CACI hearing officer.

##### **330.10.3 CACI HEARING OFFICER**

The Investigations supervisor will normally serve as the hearing officer but must not be actively connected with the case that resulted in the person's name being submitted to CACI. Upon receiving a qualified request for removal, the hearing officer shall promptly schedule a hearing to take place during normal business hours and provide written notification of the time and place of the hearing to the requesting party.

##### **330.10.4 CACI HEARING PROCEDURES**

The hearing is an informal process where the person requesting removal from the CACI list will be permitted to present relevant evidence (e.g., certified copy of an acquittal, factual finding of innocence) as to why his/her name should be removed. The person requesting the hearing may record the hearing at his/her own expense.

Formal rules of evidence will not apply and the hearing officer may consider, in addition to evidence submitted by the person requesting the hearing, any relevant information including, but not limited to, the following:

- (a) Case reports including any supplemental reports
- (b) Statements by investigators
- (c) Statements from representatives of the District Attorney's Office

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- (d) Statements by representatives of a child protective agency who may be familiar with the case

After considering all information presented, the hearing officer shall make a determination as to whether the requesting party's name should be removed from the CACI list. Such determination shall be based on a finding that the allegations in the investigation are not substantiated (Penal Code § 11169).

If, after considering the evidence, the hearing officer finds that the allegations are not substantiated, he/she shall cause a request to be completed and forwarded to the DOJ that the person's name be removed from the CACI list. A copy of the hearing results and the request for removal will be attached to the case reports.

The findings of the hearing officer shall be considered final and binding.

### **330.11 TRAINING**

The Department should provide training on best practices in child abuse investigations to members tasked with investigating these cases. The training should include:

- (a) Participating in multidisciplinary investigations, as appropriate.
- (b) Conducting forensic interviews.
- (c) Availability of therapy services for children and families.
- (d) Availability of specialized forensic medical exams.
- (e) Cultural competence (including interpretive services) related to child abuse investigations.
- (f) Availability of victim advocate or guardian ad litem support.

## Missing Persons

### 332.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

#### 332.1.1 DEFINITIONS

**At risk** - Includes, but is not limited to (Penal Code § 14215):

- A victim of a crime or foul play.
- A person missing and in need of medical attention.
- A missing person with no pattern of running away or disappearing.
- A missing person who may be the victim of parental abduction.
- A mentally impaired missing person, including cognitively impaired or developmentally disabled.

**Missing person** - Any person who is reported missing to law enforcement when the person's location is unknown. This includes a child who has been taken, detained, concealed, enticed away or kept by a parent in violation of the law (Penal Code § 277 et seq.). It also includes any child who is missing voluntarily, involuntarily or under circumstances that do not conform to his/her ordinary habits or behavior, and who may be in need of assistance (Penal Code § 14215).

**Missing person networks** - Databases or computer networks available to law enforcement and that are suitable for information related to missing persons investigations. These include the National Crime Information Center (NCIC), the California Law Enforcement Telecommunications System (CLETS), Missing Person System (MPS) and the Unidentified Persons System (UPS).

### 332.2 POLICY

The Clovis Police Department does not consider any report of a missing person to be routine and assumes that the missing person is in need of immediate assistance until an investigation reveals otherwise. The Clovis Police Department gives missing person cases priority over property-related cases and will not require any time frame to pass before beginning a missing person investigation (Penal Code § 14211).

### 332.3 REQUIRED FORMS AND BIOLOGICAL SAMPLE COLLECTION KITS

The Investigation supervisor should ensure the forms and kits are developed and available in accordance with this policy, state law, federal law and the California Peace Officer Standards and Training (POST) Missing Persons Investigations guidelines, including:

- Department report form for use in missing person cases
- Missing person investigation checklist that provides investigation guidelines and resources that could be helpful in the early hours of a missing person investigation (Penal Code § 13519.07)

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- Missing person school notification form
- Medical records release form from the California Department of Justice
- California DOJ missing person forms as appropriate
- Biological sample collection kits

### **332.4 ACCEPTANCE OF REPORTS**

Any member encountering a person who wishes to report a missing person or runaway shall render assistance without delay (Penal Code § 14211). This can be accomplished by accepting the report via telephone or in-person and initiating the investigation. Those members who do not take such reports or who are unable to render immediate assistance shall promptly dispatch or alert a member who can take the report.

A report shall be accepted in all cases and regardless of where the person was last seen, where the person resides or any other question of jurisdiction (Penal Code § 14211).

### **332.5 INITIAL INVESTIGATION**

Officers or other members conducting the initial investigation of a missing person should take the following investigative actions, as applicable:

- (a) Respond to a dispatched call for service as soon as practicable.
- (b) Interview the reporting party and any witnesses to determine whether the person qualifies as a missing person and, if so, whether the person may be at risk.
- (c) Notify a supervisor immediately if there is evidence that a missing person is either at risk or may qualify for a public alert, or both (see the Public Alerts Policy).
- (d) Broadcast a "Be on the Look-Out" (BOLO) bulletin if the person is under 21 years of age or there is evidence that the missing person is at risk. The BOLO should be broadcast as soon as practicable but in no event more than one hour after determining the missing person is under 21 years of age or may be at risk (Penal Code § 14211).
- (e) Ensure that entries are made into the appropriate missing person networks as follows:
  1. Immediately, when the missing person is at risk.
  2. In all other cases, as soon as practicable, but not later than two hours from the time of the initial report.
- (f) Complete the appropriate report forms accurately and completely and initiate a search as applicable under the facts.
- (g) Collect and/or review:
  1. A photograph and a fingerprint card of the missing person, if available.
  2. A voluntarily provided biological sample of the missing person, if available (e.g., toothbrush, hairbrush).

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3. Any documents that may assist in the investigation, such as court orders regarding custody.
  4. Any other evidence that may assist in the investigation, including personal electronic devices (e.g., cell phones, computers).
- (h) When circumstances permit and if appropriate, attempt to determine the missing person's location through his/her telecommunications carrier.
- (i) Contact the appropriate agency if the report relates to a previously made missing person report and another agency is actively investigating that report. When this is not practical, the information should be documented in an appropriate report for transmission to the appropriate agency. If the information relates to an at-risk missing person, the member should notify a supervisor and proceed with reasonable steps to locate the missing person.

#### **332.6 REPORT PROCEDURES AND ROUTING**

Employees should complete all missing person reports and forms promptly and advise the appropriate supervisor as soon as a missing person report is ready for review.

##### **332.6.1 SUPERVISOR RESPONSIBILITIES**

The responsibilities of the supervisor shall include, but are not limited to:

- (a) Reviewing and approving missing person reports upon receipt.
  1. The reports should be promptly sent to the Records and Public Services.
- (b) Ensuring resources are deployed as appropriate.
- (c) Initiating a command post as needed.
- (d) Ensuring applicable notifications and public alerts are made and documented.
- (e) Ensuring that records have been entered into the appropriate missing persons networks.
- (f) Taking reasonable steps to identify and address any jurisdictional issues to ensure cooperation among agencies.

If the case falls within the jurisdiction of another agency, the supervisor should facilitate transfer of the case to the agency of jurisdiction.

##### **332.6.2 RECORDS AND PUBLIC SERVICES RESPONSIBILITIES**

The receiving member shall:

- (a) As soon as reasonable under the circumstances, notify and forward a copy of the report to the law enforcement agency having jurisdiction over the missing person's residence in cases where the missing person is a resident of another jurisdiction (Penal Code § 14211).

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- (b) Notify and forward a copy of the report to the law enforcement agency in whose jurisdiction the missing person was last seen (Penal Code § 14211).
- (c) Notify and forward a copy of the report to the law enforcement agency having jurisdiction over the missing person's intended or possible destination, if known.
- (d) Forward a copy of the report to the Investigations.
- (e) Coordinate with the NCIC Terminal Contractor for California to have the missing person record in the NCIC computer networks updated with additional information obtained from missing person investigations (34 USC § 41308).

#### **332.7 INVESTIGATIONS FOLLOW-UP**

In addition to completing or continuing any actions listed above, the investigator assigned to a missing person investigation:

- (a) Shall ensure that the missing person's school is notified within 10 days if the missing person is a juvenile.
  - 1. The notice shall be in writing and should also include a photograph (Education Code § 49068.6).
  - 2. The investigator should meet with school officials regarding the notice as appropriate to stress the importance of including the notice in the child's student file, along with contact information if the school receives a call requesting the transfer of the missing child's files to another school.
- (b) Should recontact the reporting person and/or other witnesses within 30 days of the initial report and within 30 days thereafter to determine if any additional information has become available via the reporting party.
- (c) Should consider contacting other agencies involved in the case to determine if any additional information is available.
- (d) Shall verify and update CLETS, NCIC and any other applicable missing person networks within 30 days of the original entry into the networks and every 30 days thereafter until the missing person is located (34 USC § 41308).
- (e) Should continue to make reasonable efforts to locate the missing person and document these efforts at least every 30 days.
- (f) Shall maintain a close liaison with state and local child welfare systems and the National Center for Missing and Exploited Children® (NCMEC) if the missing person is under the age of 21 and shall promptly notify NCMEC when the person is missing from a foster care family home or childcare institution (34 USC § 41308).
- (g) Should make appropriate inquiry with the Coroner.
- (h) Should obtain and forward medical and dental records, photos, X-rays and biological samples pursuant to Penal Code § 14212 and Penal Code § 14250.
- (i) Shall attempt to obtain the most recent photograph for persons under 18 years of age if it has not previously been obtained and forward the photograph to California DOJ (Penal Code § 14210) and enter the photograph into applicable missing person networks (34 USC § 41308).

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- (j) Should consider making appropriate entries and searches in the National Missing and Unidentified Persons System (NamUs).
- (k) In the case of an at-risk missing person or a person who has been missing for an extended time, should consult with a supervisor regarding seeking federal assistance from the FBI and the U.S. Marshals Service (28 USC § 586).

#### **332.8 WHEN A MISSING PERSON IS FOUND**

When any person reported missing is found, the assigned investigator shall document the location of the missing person in the appropriate report, notify the relatives and/or reporting party, as appropriate, and other involved agencies and refer the case for additional investigation if warranted.

The Records Supervisor shall ensure that, upon receipt of information that a missing person has been located, the following occurs (Penal Code § 14213):

- (a) Notification is made to California DOJ.
- (b) The missing person's school is notified.
- (c) Entries are made in the applicable missing person networks.
- (d) Immediately notify the Attorney General's Office.
- (e) Notification shall be made to any other law enforcement agency that took the initial report or participated in the investigation within 24 hours.

#### **332.8.1 UNIDENTIFIED PERSONS**

Department members investigating a case of an unidentified person who is deceased or a living person who cannot assist in identifying him/herself should:

- (a) Obtain a complete description of the person.
- (b) Enter the unidentified person's description into the NCIC Unidentified Person File.
- (c) Use available resources, such as those related to missing persons, to identify the person.

#### **332.9 CASE CLOSURE**

The Investigations supervisor may authorize the closure of a missing person case after considering the following:

- (a) Closure is appropriate when the missing person is confirmed returned or evidence has matched an unidentified person or body.
- (b) If the missing person is a resident of Clovis or this department is the lead agency, the case should be kept under active investigation for as long as the person may still be alive. Exhaustion of leads in the investigation should not be a reason for closing a case.

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- (c) If this department is not the lead agency, the case can be made inactive if all investigative leads have been exhausted, the lead agency has been notified and entries are made in the applicable missing person networks as appropriate.
- (d) A missing person case should not be closed or reclassified because the person would have reached a certain age or adulthood or because the person is now the subject of a criminal or civil warrant.

### **332.10 TRAINING**

Subject to available resources, the Training Coordinator should ensure that members of this department whose duties include missing person investigations and reports receive regular training that includes:

- (a) The initial investigation:
  - 1. Assessments and interviews
  - 2. Use of current resources, such as Mobile Audio Video (MAV)
  - 3. Confirming missing status and custody status of minors
  - 4. Evaluating the need for a heightened response
  - 5. Identifying the zone of safety based on chronological age and developmental stage
- (b) Briefing of department members at the scene.
- (c) Identifying NCIC Missing Person File categories (e.g., disability, endangered, involuntary, juvenile and catastrophe).
- (d) Verifying the accuracy of all descriptive information.
- (e) Initiating a neighborhood investigation.
- (f) Investigating any relevant recent family dynamics.
- (g) Addressing conflicting information.
- (h) Key investigative and coordination steps.
- (i) Managing a missing person case.
- (j) Additional resources and specialized services.
- (k) Update procedures for case information and descriptions.
- (l) Preserving scenes.
- (m) Internet and technology issues (e.g., Internet use, cell phone use).
- (n) Media relations.



## Public Alerts

### 334.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for alerting the public to important information and soliciting public aid when appropriate.

### 334.2 POLICY

Public alerts may be employed using the Emergency Alert System (EAS), local radio, television and press organizations and other groups to notify the public of incidents, or enlist the aid of the public, when the exchange of information may enhance the safety of the community. Various types of alerts may be available based upon each situation and the alert system's individual criteria.

### 334.3 RESPONSIBILITIES

#### 334.3.1 EMPLOYEE RESPONSIBILITIES

Employees of the Clovis Police Department should notify their supervisor, Watch Commander or Investigations Supervisor as soon as practicable upon learning of a situation where public notification, a warning or enlisting the help of the media and public could assist in locating a missing person, apprehending a dangerous person or gathering information.

#### 334.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor apprised of the need for a public alert is responsible to make the appropriate notifications based upon the circumstances of each situation. The supervisor shall promptly notify the Chief of Police, the Patrol Division Commander, the Patrol Lieutenant, and the Public Information Officer when any public alert is generated. Once the Patrol Lieutenant is notified, they may make the notifications up the chain of command.

The supervisor in charge of the investigation to which the alert relates is responsible for the following:

- (a) Updating alerts
- (b) Canceling alerts
- (c) Ensuring all appropriate reports are completed
- (d) Notifying the Patrol Lieutenant or Division Commander of the status or disposition of the investigation.

### 334.4 AMBER ALERTS

The AMBER Alert™ Program is a voluntary partnership between law enforcement agencies, broadcasters, transportation agencies and the wireless industry, to activate urgent bulletins in child abduction cases.

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**334.4.1 CRITERIA FOR AMBER ALERT**

The following conditions must be met before activating an AMBER Alert (Government Code § 8594(a)):

- (a) A child has been abducted or taken by anyone, including but not limited to a custodial parent or guardian.
- (b) The victim is 17 years of age or younger, or has a proven mental or physical disability.
- (c) The victim is in imminent danger of serious injury or death.
- (d) There is information available that, if provided to the public, could assist in the child's safe recovery.

**334.4.2 PROCEDURE FOR AMBER ALERT**

The supervisor in charge will ensure the following:

- (a) An initial press release is prepared that includes all available information that might aid in locating the child:
  - 1. The child's identity, age and description
  - 2. Photograph if available
  - 3. The suspect's identity, age and description, if known
  - 4. Pertinent vehicle description
  - 5. Detail regarding location of incident, direction of travel, potential destinations, if known
  - 6. Name and telephone number of the Public Information Officer or other authorized individual to handle media liaison
  - 7. A telephone number for the public to call with leads or information
- (b) The local California Highway Patrol communications center should be contacted to initiate a multi-regional or statewide EAS broadcast, following any policies and procedures developed by CHP (Government Code § 8594).
- (c) The press release information is forwarded to the Sheriff's Department Emergency Communications Bureau so that general broadcasts can be made to local law enforcement agencies.
- (d) Information regarding the missing person should be entered into the California Law Enforcement Telecommunication System (CLETS).
- (e) Information regarding the missing person should be entered into the California Department of Justice Missing and Unidentified Persons System (MUPS)/National Crime Information Center (NCIC).
- (f) The following resources should be considered as circumstances dictate:
  - 1. The local FBI office
  - 2. National Center for Missing and Exploited Children (NCMEC)

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#### **334.4.3 CONTACT NUMBERS**

##### **CHP**

- (a) Emergency Notification and Tactical Alert Center (ENTAC) (916) 843-4199
- (b) Watch Commander: 705-2237
- (c) Dispatch: 262-0400
- (d) Records: 705-2200

##### **Fresno County Sheriff's Office**

- (a) Watch Commander: 600-1650
- (b) Dispatch Supervisor: 600-3426
- (c) Dispatch: 600-3111

##### **Fresno Police Department**

- (a) Dispatch Supervisor: 621-2250
- (b) FAX: 498-4597

#### **334.5 BLUE ALERTS**

Blue Alerts may be issued when an officer is killed, injured or assaulted and the suspect may pose a threat to the public or other law enforcement personnel.

##### **334.5.1 CRITERIA FOR BLUE ALERTS**

All of the following conditions must be met before activating a Blue Alert (Government Code § 8594.5):

- (a) A law enforcement officer has been killed, suffered serious bodily injury or has been assaulted with a deadly weapon, and the suspect has fled the scene of the offense.
- (b) The investigating law enforcement agency has determined that the suspect poses an imminent threat to the public or other law enforcement personnel.
- (c) A detailed description of the suspect's vehicle or license plate is available for broadcast.
- (d) Public dissemination of available information may help avert further harm or accelerate apprehension of the suspect.

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#### **334.5.2 PROCEDURE FOR BLUE ALERT**

The supervisor in charge should ensure the following:

- (a) An initial press release is prepared that includes all available information that might aid in locating the suspect:
  - 1. The license number and/or any other available description or photograph of the vehicle
  - 2. Photograph, description and/or identification of the suspect
  - 3. The suspect's identity, age and description, if known
  - 4. Detail regarding location of incident, direction of travel, potential destinations, if known
  - 5. Name and telephone number of the Public Information Officer or other authorized individual to handle media liaison
  - 6. A telephone number for the public to call with leads or information
- (b) The local California Highway Patrol communications center is contacted to initiate a multi-regional or statewide EAS broadcast.
- (c) The information in the press release is forwarded to the Sheriff's Department Emergency Communications Bureau so that general broadcasts can be made to local law enforcement agencies.
- (d) The following resources should be considered as circumstances dictate:
  - 1. Entry into the California Law Enforcement Telecommunication System (CLETS)
  - 2. The FBI local office

#### **334.6 SILVER ALERTS**

Silver Alerts® is an emergency notification system for people who are 65 years of age or older, developmentally disabled or cognitively impaired and have been reported missing (Government Code § 8594.10).

##### **334.6.1 CRITERIA FOR SILVER ALERTS**

All of the following conditions must be met before activating a Silver Alert (Government Code § 8594.10):

- (a) The missing person is 65 years of age or older, developmentally disabled or cognitively impaired.
- (b) The department has utilized all available local resources.
- (c) The investigating officer or supervisor has determined that the person is missing under unexplained or suspicious circumstances.

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- (d) The investigating officer or supervisor believes that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.
- (e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

#### **334.6.2 PROCEDURE FOR SILVER ALERT**

Requests for a Silver Alert shall be made through the California Highway Patrol (Government Code § 8594.10).

#### **334.7 MUTUAL AID**

The experiences of other law enforcement jurisdictions that have implemented similar plans indicate an AMBER Alert or Blue Alert will generate a high volume of telephone calls to the handling agency.

The Sheriff's Department Emergency Communications Bureau facilities and staff can be made available in the event of a high call volume.

If the Watch Commander or Investigations Supervisor elects to use the services of the Sheriff's Department, the following will apply:

- (a) Notify the Sheriff's Department Watch Commander of the incident and the request for assistance. He/she will provide you with a telephone number for the public to call.
- (b) In the press release, direct the public to the telephone number provided by the Sheriff's Department Watch Commander.
- (c) The Public Information Officer will continue to handle all press releases and media inquiries. Any press inquiries received by the Sheriff's Department will be referred back to this department.

The Clovis Police Department shall assign a minimum of two detectives/officers to respond to the Sheriff's Department Emergency Communications Bureau to screen and relay information and any clues received from incoming calls. As circumstances dictate, more staff resources from the handling law enforcement agency may be necessary to assist the staff at the Emergency Communications Bureau.

## **Victim and Witness Assistance**

### **336.1 PURPOSE AND SCOPE**

The purpose of this policy is to ensure that crime victims and witnesses receive appropriate assistance, that they are provided with information from government and private resources, and that the agency meets all related legal mandates.

### **336.2 POLICY**

The Clovis Police Department is committed to providing guidance and assistance to the victims and witnesses of crime. The members of the Clovis Police Department will show compassion and understanding for victims and witnesses and will make reasonable efforts to provide the support and information identified in this policy.

#### **336.2.1 VICTIM DEFINED**

"Victim" shall mean a California resident or military person who is:

- (a) A person who sustains injury or death as a direct result of a crime
- (b) Legally dependent for support upon a person who sustains injury or death as a direct result of a crime
- (c) A family member or any person in close relationship to a victim who was present during the commission of the crime and whose treatment or presence during treatment of the victim is required for successful medical treatment
- (d) Any individual who legally assumes the obligation, or who voluntarily pays the medical or burial expenses incurred as a direct result of a death caused by a crime

### **336.3 CRIME VICTIMS**

Officers should provide all victims with the applicable victim information handouts.

Officers should never guarantee a victim's safety from future harm but may make practical safety suggestions to victims who express fear of future harm or retaliation. Officers should never guarantee that a person qualifies as a victim for the purpose of compensation or restitution but may direct him/her to the proper written department material or available victim resources.

#### **336.3.1 VICTIMS OF HUMAN TRAFFICKING**

Officers investigating or receiving a report involving a victim of human trafficking shall inform the victim, or the victim's parent or guardian if the victim is a minor, that upon the request of the victim the names and images of the victim and his/her immediate family members may be withheld from becoming a matter of public record until the conclusion of the investigation or prosecution (Penal Code § 293).

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**336.4 VICTIM INFORMATION**

The Administration Supervisor shall ensure that victim information handouts are available and current. These should include as appropriate:

- (a) Shelters and other community resources for victims of domestic violence.
- (b) Community resources for victims of sexual assault.
- (c) Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams, and information about evidence collection, storage and preservation in sexual assault cases (34 USC § 10449; 34 USC § 20109; Penal Code § 13823.95(a)).
- (d) An explanation that victims of sexual assault who seek a medical evidentiary examination shall not be required to participate or agree to participate in the criminal justice system, either prior to the examination or at any other time (Penal Code § 13823.95(b)).
- (e) An advisement that a person who was arrested may be released on bond or some other form of release and that the victim should not rely upon an arrest as a guarantee of safety.
- (f) A clear explanation of relevant court orders and how they can be obtained.
- (g) Information regarding available compensation for qualifying victims of crime (Government Code § 13962).
- (h) VINE® Information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow victims to check on an offender's custody status and to register for automatic notification when a person is released from jail.
- (i) Notice regarding U Visa and T Visa application processes.
- (j) Resources available for victims of identity theft.
- (k) A place for the officer's name, badge number and any applicable case or incident number.
- (l) The "Victims of Domestic Violence" card containing the names, phone numbers or local county hotlines of local shelters for battered women and rape victim counseling centers within the county and their 24-hour counseling service telephone numbers (Penal Code § 264.2).
- (m) The rights of sexual assault victims card with the required information as provided in Penal Code § 680.2.
- (n) Any additional information required by state law (Penal Code § 13701; Penal Code § 679.02; Penal Code § 679.04; Penal Code § 679.05; Penal Code § 679.026).

**336.5 WITNESSES**

Officers should never guarantee a witness' safety from future harm or that his/her identity will always remain confidential. Officers may make practical safety suggestions to witnesses who express fear of future harm or retaliation.

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Officers should investigate allegations of witness intimidation and take enforcement action when lawful and reasonable.



## Hate Crimes

### 338.1 PURPOSE AND SCOPE

The purpose of this policy is to meet or exceed the provisions of Penal Code § 13519.6(c) and provides members of this department with guidelines for identifying and investigating incidents and crimes that may be motivated by hatred or other bias.

#### 338.1.1 DEFINITIONS

**Hate crimes** - A criminal act committed in whole or in part, because of one or more of the following actual or perceived characteristics of the victim (Penal Code § 422.55; Penal Code § 422.56; Penal Code § 422.57):

- (a) Disability
- (b) Gender
- (c) Nationality
- (d) Race or ethnicity
- (e) Religion
- (f) Sexual orientation
- (g) Association with a person or group with one or more of these actual or perceived characteristics
- (h) Examples of hate crimes include, but are not limited to:
  - 1. Interfering with, oppressing or threatening any other person in the free exercise or enjoyment of any right or privilege secured by the constitution or laws because of one or more of the actual or perceived characteristics of the victim (Penal Code § 422.6).
  - 2. Defacing a person's property because of one or more of the actual or perceived characteristics of the victim (Penal Code § 422.6(b)).
  - 3. Terrorizing a person with a swastika or burning cross (Penal Code § 11411).
  - 4. Vandalizing a place of worship (Penal Code § 594.3).

The federal Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act expands federal hate crimes to include crimes motivated by a victim's actual or perceived sex, sexual orientation, gender identity or disability (18 USC § 249).

**Victim** - Includes, but is not limited to, a community center, educational facility, entity, family, group, individual, office, meeting hall, person, place of worship, private institution, public agency, library or other victim or intended victim of the offense (Penal Code § 422.56).

### 338.2 POLICY

The Clovis Police Department recognizes and places a high priority on the rights of all individuals guaranteed under the state and federal constitution and incorporated in state and federal law.

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#### **338.3 PREVENTION AND PREPARATION**

While it is recognized that not all crime can be prevented, this department is committed to taking a proactive approach to preventing and preparing for likely hate crimes by, among other things:

- (a) Make an affirmative effort to establish contact with persons and groups within the community who are likely targets of hate crimes and forming networks that address prevention and response.
- (b) Accessing assistance by, among other things, activating the California Department of Justice Hate Crime Rapid Response Protocol when necessary.
- (c) Providing victim assistance and community follow-up as outlined below.
- (d) Educating community and civic groups about hate crime laws.
- (e) Establishing a community relations liaison to work with community organizations and leaders to coordinate public meetings, local group meetings and school assemblies on recognizing, preparing for and preventing hate crimes.

#### **338.4 INVESTIGATIONS**

Whenever any member of this department receives a report of a suspected hate crime or other activity that reasonably appears to involve a potential hate crime, the following should occur:

- (a) Assigned officers should promptly contact the victim, witness or reporting party to investigate the matter further as circumstances may dictate
- (b) A supervisor should be notified of the circumstances as soon as practical.
- (c) Once in-progress aspects of any such situation have been stabilized (e.g., treatment of victims, apprehension of suspects at the scene), the assigned officers should take all reasonable steps to preserve evidence that establishes a possible hate crime.
- (d) Based upon available information, officers should take appropriate action to mitigate further injury or damage to potential victims or the community.
  - 1. Officers should contact the property owner to remove any evidence that cannot be physically removed (i.e., painted words or signs on a wall) by the officer once the offense is documented.
- (e) The assigned officers should interview available witnesses, victims and others to determine what circumstances, if any, indicate that the situation may involve a hate crime.
  - 1. No victim of or a witness to a hate crime who is not otherwise charged with or convicted of a crime under state law may be detained for or turned over to federal authorities exclusively for any actual or suspected immigration violation (Penal Code § 422.93(b))
  - 2. Statements of victims and witnesses should be audio or video recorded if practicable (see the Portable Audio/Video Recorders Policy).
- (f) Depending on the situation, the assigned officers or supervisor may request additional assistance from detectives or other resources.

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- (g) The assigned officers should include all available evidence indicating the likelihood of a hate crime in the relevant reports. All related reports should be clearly marked as "Hate Crimes" and, absent prior approval of a supervisor, should be completed and submitted by the assigned officers before the end of the shift.
- (h) The assigned officers will provide the victims of any suspected hate crime with a brochure on hate crimes (Penal Code § 422.92). Such brochures will also be available to members of the general public upon request. The assigned officers should also make reasonable efforts to assist the victims by providing available information on local assistance programs and organizations.
- (i) The assigned officers and supervisor should take reasonable steps to ensure that any such situation does not escalate further and should provide information to the victim regarding legal aid (e.g., Possible Temporary Restraining Order through the District Attorney or City Attorney Penal Code § 136.2 or Civil Code § 52.1 as indicated).

#### 338.4.1 INVESTIGATIONS RESPONSIBILITY

If a hate crime case is assigned to the Investigations, the assigned detective will be responsible for:

- (a) Coordinating further investigation with the District Attorney and other appropriate law enforcement agencies.
- (b) Maintaining contact with the victims and other involved individuals, as needed.
- (c) Maintaining statistical data and tracking on suspected hate crimes as indicated for required reporting to the Attorney General (Penal Code § 13023). See the Records and Public Services Policy.
- (d) Make reasonable efforts to identify additional witnesses.
- (e) Utilize available criminal intelligence systems as appropriate (see Criminal Organizations Policy).
- (f) Provide the supervisor and the Public Information Officer (PIO) with information that can be responsibly reported to the media.
  - 1. When appropriate, the PIO should reiterate that the hate crime will not be tolerated and will be taken seriously.

#### 338.4.2 SUPERVISOR RESPONSIBILITY

The supervisor should confer with the initial responding officers to identify reasonable and appropriate preliminary actions. The supervisor should:

- (a) Review related reports to verify whether the incident is appropriately classified as a hate crime for federal and state bias crime-reporting purposes.
- (b) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
- (c) Consider the need for further action to be taken for the protection of the victims or vulnerable sites, such as assigning an officer at specific locations that could become targets or increase neighborhood surveillance.

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- (d) Ensure that members who are responsible for the conduct and maintenance of information on criminal groups are notified and that they make appropriate inquiries and entries into criminal intelligence systems (see Criminal Organizations Policy).

**338.5 TRAINING**

All members of this department will receive POST-approved training on hate crime recognition and investigation as provided by Penal Code § 13519.6. Training should also include recognition of bias motivators such as ranges of attitudes and perceptions toward a specific characteristic or group.

## **Disciplinary Policy**

### **340.1 PURPOSE AND SCOPE**

To provide employees of this department with guidelines for their conduct in order that they may participate in meeting the goals of this department in serving the community. This policy shall apply to all sworn and non-sworn members of this department (including part-time and reserve employees). This policy is intended for internal use only and shall not be construed to increase or establish an employee's civil or criminal liability. Nor shall it be construed to create or establish a higher standard of safety or care. A violation of any portion of this policy may only serve as the basis for internal disciplinary and/or administrative action.

### **340.2 DISCIPLINE POLICY**

The continued employment of every employee of this department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure of any employee to meet the guidelines set forth in this policy, whether on-duty or off-duty, may be cause for disciplinary action.

An employee's off-duty conduct shall be governed by this policy to the extent that it is related to act(s) that may materially affect or arise from the employee's ability to perform official duties or to the extent that it may be indicative of unfitness for his/her position.

### **340.3 CONDUCT WHICH MAY RESULT IN DISCIPLINE**

The following list of causes for disciplinary action constitutes a portion of the disciplinary standards of this department. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for specific action or inaction that is detrimental to efficient department service:

#### **340.3.1 ATTENDANCE**

- (a) Leaving job to which assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness on scheduled day(s) of work.
- (c) Failure to report to work or to place of assignment at time specified and fully prepared to perform duties without reasonable excuse.
- (d) Failure to notify the Department within 24 hours of any change in residence address, home phone number, or marital status.

#### **340.3.2 CONDUCT**

- (a) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily injury on another.
- (b) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment without first notifying the Chief of Police of such action.

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- (c) Using department resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.
- (d) Engaging in horseplay resulting in injury or property damage or the reasonable possibility thereof.
- (e) Unauthorized possession of, loss of or damage to department property or the property of others, or endangering it through unreasonable carelessness or maliciousness.
- (f) Failure of any employee to promptly and fully report activities on their own part or the part of any other employee where such activities may result in criminal prosecution or discipline under this policy.
- (g) Failure of any employee to promptly and fully report activities that have resulted in official contact by any other law enforcement agency.
- (h) Using or disclosing one's status as an employee with the Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.
- (i) The use of any information, photograph, video or other recording obtained or accessed as a result of employment with the Department for personal or financial gain or without the express authorization of the Chief of Police or a designee may result in discipline under this policy.
- (j) Seeking restraining orders against individuals encountered in the line of duty without the express permission of the Chief of Police.
- (k) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department.
- (l) Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.
- (m) Engaging in on-duty sexual relations including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.

#### 340.3.3 DISCRIMINATION

- (a) Discriminate against any person because of age, race, color, creed, religion, sex, sexual orientation, national origin, ancestry, marital status, physical or mental disability or medical condition.

#### 340.3.4 INTOXICANTS

- (a) Reporting for work or being at work following the use of intoxicants where such use may impair the employee's ability to perform assigned duties or where there is an

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immediate suspicion of ineffectiveness during public contact resulting from the use of Intoxicants

- (b) Unauthorized possession or use of, or attempting to bring intoxicants to the work site, except as authorized in the performance of an official assignment such as department training. An employee who is authorized to consume intoxicants is not permitted to do so to such a degree that it may impair on-duty performance
- (c) Reporting for work or being at work following the use of a "controlled substance" or any drug (whether legally prescribed or otherwise) where such use may impair the employee's ability to perform assigned duties
- (d) Unauthorized possession, use of, or attempting to bring controlled substance or other illegal drug to any work site

**340.3.5 PERFORMANCE**

- (a) Unauthorized sleeping during on-duty time or assignments.
- (b) Careless workmanship resulting in spoilage or waste of materials or work of an unacceptable nature as applicable to the nature of the work assigned.
- (c) Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or instructions of supervisors without a reasonable and bona fide excuse.
- (d) Concealing, attempting to conceal, removing or destroying defective or incompetent work.
- (e) Disobedience or insubordination to constituted authorities, including refusal or deliberate failure to carry out or follow lawful directives and orders from any supervisor or person in a position of authority.
- (f) The wrongful or unlawful exercise of authority on the part of any employee for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (g) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of the Department or subverts the good order, efficiency and discipline of the Department or which would tend to discredit any member thereof.
- (h) Knowingly making false, misleading or malicious statements that are reasonably calculated to harm or destroy the reputation, authority or official standing of the Department or members thereof.
- (i) The falsification of any work-related records, the making of misleading entries or statements with the intent to deceive, or the willful and unauthorized destruction and/or mutilation of any department record, book, paper or document.

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- (j) Wrongfully loaning, selling, giving away or appropriating any department property for the personal use of the employee or any unauthorized person.
- (k) The unauthorized use of any badge, uniform, identification card or other department equipment or property for personal gain or any other improper purpose.
- (l) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the employee's duties (lawful subpoena fees and authorized work permits excepted).
- (m) Any knowing or negligent violation of the provisions of the department manual, operating procedures or other written directive of an authorized supervisor. The Department shall make this manual available to all employees. Employees shall familiarize themselves with this manual and be responsible for compliance with each of the policies contained herein.
- (n) Work-related dishonesty, including attempted or actual theft of department property, services or the property of others, or the unauthorized removal or possession of department property or the property of another person.
- (o) Criminal, dishonest, infamous or disgraceful conduct adversely affecting the employee/employer relationship, whether on- or off-duty.
- (p) Failure to disclose or misrepresenting material facts, or the making of any false or misleading statement on any application, examination form, or other official document, report or form or during the course of any work-related investigation.
- (q) Failure to take reasonable action while on-duty and when required by law, statute, resolution or approved department practices or procedures.
- (r) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when a department member knew or reasonably should have known of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by the Department.
- (s) Offer or acceptance of a bribe or gratuity.
- (t) Misappropriation or misuse of public funds.
- (u) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (v) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions: while on department premises; at any work site; while on-duty or while in uniform; or while using any department equipment or system. Gambling activity undertaken as part of an officer's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.



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- (w) Substantiated, active, continuing association on a personal rather than official basis with a person or persons who engage in or are continuing to engage in serious violations of state or federal laws, where the employee has or reasonably should have knowledge of such criminal activities, except where specifically directed and authorized by the Department.
- (x) Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty, on department property or while in any way representing him/herself as a member of this agency, except as expressly authorized by the Chief of Police.
- (y) Engaging in political activities during assigned working hours except as expressly authorized by the Chief of Police.
- (z) Violating any misdemeanor or felony statute.
- (aa) Any other on-duty or off-duty conduct which any employee knows or reasonably should know is unbecoming a member of the Department or which is contrary to good order, efficiency or morale, or which tends to reflect unfavorably upon the Department or its members.
- (ab) Any failure or refusal of an employee to properly perform the function and duties of an assigned position.
- (ac) Failure to maintain required and current licenses (e.g. driver's license) and certifications (e.g., first aid).
- (ad) Giving false or misleading statements, or misrepresenting or omitting material information to a supervisor, or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.

#### 340.3.6 SAFETY

- (a) Failure to observe posted rules, signs and written or oral safety instructions while on duty and/or within department facilities or to use required protective clothing or equipment.
- (b) Knowingly failing to report any on-the-job or work-related accident or injury within 24 hours.
- (c) Substantiated employee record of unsafe or improper driving habits or actions in the course of employment.
- (d) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- (e) Any personal action contributing to involvement in a preventable traffic collision, or other unsafe or improper driving habits or actions in the course of employment.
- (f) Violating departmental safety standards or safe working practices.

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### **340.3.7 SECURITY**

- (a) Unauthorized, intentional release of designated confidential information, materials, data, forms or reports

### **340.3.8 SUPERVISION RESPONSIBILITY**

- (a) Failure of a supervisor to take appropriate action to ensure that employees adhere to the policies and procedures of this department and the actions of all personnel comply with all laws
- (b) Failure of a supervisor to timely report known misconduct of an employee to his or her immediate supervisor or to document such misconduct appropriately or as required by policy
- (c) The unequal or disparate exercise of authority on the part of a supervisor toward any employee for malicious or other improper purpose

### **340.4 INVESTIGATION OF DISCIPLINARY ALLEGATIONS**

Regardless of the source of an allegation of misconduct, all such matters will be investigated in accordance with Personnel Complaint Procedure Policy Manual § 1020. Pursuant to Government Code §§ 3304(d) and 3508.1, the investigation should be completed within one year of the discovery of the allegation unless such investigation falls within one of the exceptions delineated within those provisions.

### **340.5 POST INVESTIGATION PROCEDURES**

Upon receipt of any completed administrative investigation, the investigating officer(s) shall turn in all reports, tapes, recording, transcripts, photos, and any other evidence related to the investigation to the Division Commander of the involved employee. The Division Commander shall review the entire investigative file. Once the Division Commander is satisfied that no other investigation or action is required, he/she will determine if violations of Department regulations occurred and if discipline is justified. If the findings of the administrative investigation are "Unfounded", "Exonerated" or "Not Sustained" and the Division Commander concurs, the employee will be notified in writing of the findings.

If all or any of the allegations are "Sustained" and the Division Commander determines that disciplinary action is justified, the Division Commander will notify the employee of his/her right to review by a Disciplinary Review Board, except as noted herein. This will be done through a Department memorandum. The memorandum shall notify the employee of his/her right to request or waive the right to DRB review within five (5) calendar days of serving the notice if personally served and seven (7) calendar days if the notice is mailed only. The employee shall be provided with a copy of the administrative investigation with the memorandum. If the employee fails to respond within the allotted time, a Disciplinary Review Board will be convened.

Exceptions to a DRB:

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- (a) Civilian (non-sworn) employees, probationary sworn employees being released from probation, and reserve officers are not entitled to a DRB;
- (b) Where the Division Commander or another supervisor intends to impose a written reprimand, the matter shall not be referred to a DRB and shall be subject to the procedures set forth below.

The procedures for imposing discipline and conducting administrative appeals will vary depending on whether the discipline imposed is a written reprimand, a suspension of 40 hours or less, or a suspension of more than 40 hours. For written reprimands, they may be issued by a supervisor or the Division Commander and appeals are to a supervisor higher in rank. For a suspension of 40 hours or less, the discipline is imposed by the Division Commander with appeal to the Chief of Police. For a suspension of more than 40 hours the discipline is imposed by the Chief of Police with appeal to the Personnel Commission.

### **340.5.1 WRITTEN REPRIMANDS**

The Division Commander or a supervisor may issue a written reprimand to any employee for a violation of the provisions of the Department Manual and disciplinary standards contained therein, for a violation of any Department Operating Procedures, for a violation of any written or oral directive from a supervisor, and for any other misconduct. Any sworn employee (except probationary and reserve officers) may formally appeal a written reprimand by submitting a written request to the Division Commander within five (5) days of receipt of the written reprimand. The Division Commander will then assign the appeal to an uninvolved supervisor of at least one rank above the rank of the supervisor issuing the original written reprimand. If the original written reprimand was issued by a Division Commander the appeal will be assigned to an uninvolved Division Commander.

The assigned supervisor will conduct the appeal within thirty (30) days. The proceeding shall be informal in nature. The Department and employee will each have an opportunity to present their positions. The technical rules of evidence shall not apply and the assigned supervisor may exclude irrelevant and repetitious evidence that detracts from the proceedings. The proceeding shall be tape recorded. At the conclusion of the appeal, the assigned supervisor may sustain, modify, or dismiss the written reprimand. The supervisor's decision shall be final.

### **340.5.2 DISCIPLINARY REVIEW BOARD RESPONSIBILITIES**

The purpose of the Disciplinary Review Board is to review evidence, testimony, and reports in order to make recommendations in disciplinary matters arising out of misconduct by non-probationary and non-reserve sworn-Department personnel where the discipline is likely to be greater than a written reprimand.

The Board shall consist of one division commander, one supervisor of the rank sergeant or higher, and one Department member assigned to similar duties as the involved employee.

Conduct of the Disciplinary Review Board shall be considered a continuation of the investigation and shall be governed in accordance with Government Code Section 3300 et seq. (Public Safety

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Officers Procedural Bill of Rights Act), when applicable, and City of Clovis Personnel Rules and Regulations. All proceedings and reports generated by the Board are confidential. When questioning the subject officer no more than two members of the Board may ask questions.

In closed session, the Board shall review all reports and evidence pertaining to the conduct in question. The opportunity to give testimony shall be afforded to the involved party, or parties, during the course of the proceedings. Testimony may be received from witnesses to clarify any questions of fact. New information shall be shared with the employee.

The Board may also request that further investigation be completed. If further investigation is completed, the employee shall be provided with the results of that subsequent investigation and an opportunity to respond to the DRB.

The Board, at the conclusion of the process and by majority vote, shall make a recommendation as to the nature and extent of disciplinary action. The recommendations of the Board shall be solely advisory and not binding on subsequent decisions by the Division Commander or Chief of Police.

#### **340.5.3 DIVISION COMMANDER REVIEW OF DRB RECOMMENDATION**

Upon receipt of a written recommendation for disciplinary action from the DRB, the Division Commander of the subject officer shall review the recommendation and all accompanying materials. The Division Commander may modify the recommendations and/or may return the matter for further review, action or investigation.

#### **340.5.4 RESPONSIBILITIES OF THE DIVISION COMMANDER WHERE DISCIPLINE PROPOSED IS GREATER THAN A WRITTEN REPRIMAND (NOTICE TO EMPLOYEE)**

In the event the Division Commander proposes to impose disciplinary action greater than a written reprimand, whether following a DRB recommendation or employee waiver of the DRB, or for non-sworn employees where no DRB is provided, the Division Commander shall provide the employee (except probationary employees being released from probation and reserve officers) with written notice of the following information:

- (a) Specific charges set forth in separate counts, describing the conduct underlying each count.
- (b) A recommendation of proposed discipline.
- (c) A statement that the employee has been provided with or given access to all of the materials considered by the Division Commander in recommending the proposed discipline.
- (d) An opportunity to respond orally or in writing to the Division Commander within not less than five (5) calendar days of serving the notice if personally served and seven (7) calendar days if the notice is mailed only.

Upon a showing of good cause by the employee, the Division Commander may grant a reasonable extension of time for the employee to respond.

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If the employee elects to respond orally, the Department shall record the presentation. Upon request, the employee shall be provided with a copy of the recording.

### **340.5.5 PRE-DISCIPLINE CONFERENCE WHERE DISCIPLINE GREATER THAN WRITTEN REPRIMAND (EMPLOYEE RESPONSE)**

The pre-discipline process is intended to provide the involved employee with an opportunity to present a written or oral response to the Division Commander after the employee has had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. They shall consider the following:

- (a) The employee's response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the employee's response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation be conducted or the employee may offer any additional information or mitigating factors for the Division Commander to consider.
- (d) In the event that the Division Commander elects to cause further investigation to be conducted, the employee shall be provided with the results of that subsequent investigation and an opportunity to respond to the Division Commander prior to the imposition of any discipline.

### **340.5.6 FINAL ACTION BY DIVISION COMMANDER**

Once the employee has completed his/her response or, if the employee has elected to waive any such response, the Division Commander shall consider all information received in regard to the recommended discipline. The Division Commander shall thereafter render a timely written decision to the employee imposing, modifying or rejecting the recommended discipline with notification of any appeal rights.

Once the Division Commander has issued a written decision, that decision shall be forwarded to the Chief of Police for final action as set forth below, and subject to the employees right of appeal in accordance with the procedures set forth below.

### **340.5.7 REVIEW AND ACTION BY CHIEF OF POLICE**

For disciplinary actions greater than a written reprimand, the Chief of Police is required to take final action, subject to any appeal rights.

Suspensions of 40 hours or less. For disciplinary actions greater than a written reprimand but involving 40 hour suspensions or less where the Chief conducts the appeal hearing, the matter shall be submitted to the Chief for final action upon expiration of the appeal period if no appeal is filed. If the matter is appealed, the Chief shall conduct the appeal in accordance with Section 340.7.

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Suspensions of more than 40 hours. For disciplinary actions involving suspensions of more than 40 hours where the Personnel Commission conducts the appeal hearing, the matter shall be submitted to the Chief of Police for final action upon issuance of the Division Commander's final written decision. This is not an appeal.

The Chief of Police shall review the entire investigative file, the Division Commanders proposed disciplinary action, any materials submitted during the employee response proceedings, and the Division commander's final recommended action. The Chief of Police may request that the Division Commander conduct additional investigation or follow up. If further investigation is conducted, the employee shall be provided with the results of that subsequent investigation and an opportunity to respond to the Chief of Police. At the Chief's sole discretion, the Chief may meet with the employee. The Chief may accept the Division Commanders decision as the Chief's own decision or modify the decision. The Chief shall provide notice to the employee of the final action. For disciplinary matters involving suspensions of more than 40 hours, the Chief shall also notify the employee of his or her appeal rights to the Personnel Commission.

### **340.6 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE**

In the event that an employee tenders a written retirement or resignation prior to the imposition of discipline, it shall be noted in the employee's personnel file.

The tender of a retirement or resignation by itself shall not serve as grounds for the termination of a pending investigation.

### **340.7 EMPLOYEE APPEAL RIGHTS OF DISCIPLINARY ACTIONS GREATER THAN A WRITTEN REPRIMAND**

There are three separate appeal procedures depending on the type of discipline. For written reprimands, appeal is to a higher ranking supervisor and the procedures are set forth in Section 340.51. For suspensions of 40 hours or less appeal is to the Chief of Police as set forth in this section. For suspensions of more than 40 hours, appeal is to the Personnel Commission in accordance with the City of Clovis Personnel Rules and Regulations. These procedures are applicable to regular employees who have completed their probationary period. Probationary employees, non-sworn employees, and reserve officers are not entitled to these procedures. See section 340.8 pertaining to probationary employees and reserve officers.

#### **340.7.1 APPEAL PROCEDURES FOR DISCIPLINARY ACTIONS INVOLVING FORTY HOUR SUSPENSIONS OR LESS (FOR SWORN EMPLOYEES ONLY)**

- (a) For disciplinary actions of sworn employees (except probationary employees and reserve officers) involving suspensions of forty (40) hours or less, transfer for purposes of punishment, or reduction in salary equal to or less than the equivalent of a 40 hour suspension, the employee shall be entitled to an administrative appeal hearing in accordance with the following procedures:
  - 1. The employee shall request an appeal hearing within five (5) calendar days of receipt of the written decision to impose discipline.

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2. Upon the employee's request for an appeal hearing, the Department shall make arrangements for the Chief of Police to hear the appeal at the earliest time available to all parties.
  3. The Chief of Police shall control the order of the proceedings.
  4. The technical rules of evidence shall not apply, but the Chief of Police may exclude irrelevant and repetitious evidence that detracts from the proceedings.
  5. The hearing shall be tape recorded or transcribed by a court reporter.
  6. The Department shall first present its reasons and the basis for the disciplinary action.
  7. The employee shall then present his or her response.
  8. The Chief of Police may supplement the Procedures contained herein as necessary and appropriate for the orderly conduct of the proceedings and to ensure the fairness of the hearing.
- (b) Within ten (10) calendar days after the conclusion of the hearing, or within a reasonable extension of time, the Chief of Police shall issue a written decision which either:
1. Upholds the punitive action
  2. Increases a suspension involving less than 40 hours (up to 40 hours), not to exceed the notice of intended discipline
  3. Increases a reduction in salary of less than the equivalent of a 40 hour suspension (up to the equivalent of a 40 hour suspension), not to exceed the notice of intended discipline
  4. Modifies the punitive action downward or
  5. Reverses the punitive action.
- (c) The Chief of Police's decision shall make reference to the basis of its decision.
- (d) The Chief of Police's decision shall be final. Judicial review may be had by the filing of a writ of mandate pursuant to Code of Civil Procedure Sections 1094.5 and 1094.6 within 90 calendar days of the notice of decision.

#### **340.7.2 APPEAL PROCEDURES FOR DISCIPLINARY ACTIONS INVOLVING SUSPENSIONS OF MORE THAN 40 HOURS (FOR SWORN AND PROFESSIONAL STAFF EMPLOYEES)**

For disciplinary actions of both sworn and professional staff (non-sworn) employees (except probationary employees and reserve officers) involving suspensions of more than 40 hours, demotions, dismissals, and reductions in salary which amount to more than the equivalent of a 40 hour suspension, the employee shall be entitled to an appeal before the City's Personnel Commission as set forth in the City of Clovis Personnel Rules and Regulations, as those rules

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may be amended from time to time, or as otherwise set forth in the operative memorandum of understanding (MOU). Absent something expressly to the contrary in the Personnel Rules and Regulations or in the operative MOU, the findings and recommendations from the Personnel Commission shall be submitted to the City Manager for review and final action.

The City Manager may affirm, revoke, or modify the recommendation of the Personnel Commission. The City Manager's decision shall be final. Judicial review may be had by the filing of a writ of mandate pursuant to Code of Civil Procedure Sections 1094.5 and 1094.6 within 90 calendar days of the notice of decision.

#### **340.7.3 REVIEW BY CHIEF OF POLICE IN LIEU OF APPEAL HEARING**

The employee may, in lieu of an appeal hearing before either the Chief of Police or the Personnel Commission, request that the proposed disciplinary action be informally reviewed by the Chief of Police. Any such request in lieu of an appeal hearing shall be made within five (5) days of receipt of the written decision to impose discipline. Under these circumstances, the following procedures shall apply:

- (a) The employee may offer additional information or mitigating factors for the Chief of Police to consider.
- (b) The Chief of Police shall consider all the information in regard to the discipline and render a timely written decision to the employee which either:
  - 1. Upholds the punitive action
  - 2. Increases a suspension involving less than 40 hours (up to 40 hours), not to exceed the notice of intended discipline
  - 3. Increases a reduction in salary of less than the equivalent of a 40 hour suspension (up to the equivalent of a 40 hour suspension), not to exceed the notice of intended discipline
  - 4. Modifies the punitive action downward or
  - 5. Reverses the punitive action
- (c) The Chief of Police's decision shall make reference to the basis of its decision.
- (d) The Chief of Police's decision shall be final.

#### **340.8 POST SKELLY PROCEDURE**

In situations resulting in the imposition of a suspension, punitive transfer, demotion, termination of a non-probationary employee, the employee shall have the right to an evidentiary appeal of the Chief of Police's imposition of discipline pursuant to the operative Memorandum of Understanding (MOU) or collective bargaining agreement and personnel rules.



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During any post-Skelly administrative appeal, evidence that an officer has been placed on a *Brady* list or is otherwise subject to *Brady* restrictions may not be introduced unless the underlying allegations of misconduct have been independently established. Thereafter, such *Brady* evidence shall be limited to determining the appropriateness of penalty. (Government Code § 3305.5).

#### 340.8.1 PROBATIONARY EMPLOYEES

- (a) In accordance with P.O.S.T requirements, the City's Personnel Rules and Regulations, and Department Policies and Practices, all new Department employees are on probation for a period of not less than one (1) year. New officers beginning as Police Officer Recruits are on probation for a period of not less than two (2) years. Probationary periods may be extended for up to an additional six (6) months by the Chief of Police. The employee shall be notified in writing of any extension. The Chief may also place probationary periods on hold during periods of time when the employee is absent from work, or is otherwise unable to perform normal duties, such as during an extended leave of absence or light duty assignment, so that the employee completes a full probationary period.
- (b) Probationary employees have no property interest in or right to continued employment with the Department or the City.
- (c) Employees of the Department disciplined or terminated during the probationary period shall have no appeal rights. Probationary sworn employees not being released from probation are entitled to a DRB as set forth above. The Chief of Police, or a Division Commander appointed by the Chief of Police, may, but is not required to, hold a conference with the employee to review the basis for discipline or termination. Under certain circumstances, a name clearing hearing may be required.
- (d) At all times during any investigation of allegations of misconduct involving a probationary sworn police officer, such officer shall be afforded the procedural rights for conducting interrogations set forth in Government Code section 3303.

#### 340.8.2 RESERVE OFFICERS

- (a) Reserve officers are either at will employees or volunteers with the Department and shall have no property interest or right to continued employment or reserve status with the Department or City.
- (b) Reserve officers disciplined or terminated shall have no appeal rights. The Chief of Police, or a Division Commander appointed by the Chief of Police, may, but is not required to, hold a conference with the employee or volunteer to review the basis for discipline or termination. Under certain circumstances, a name clearing hearing may be required.
- (c) At all times during any investigation of allegations of misconduct involving a sworn reserve officer meeting the requirements of Section 350 of this Manual, such officer

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shall be afforded the procedural rights for conducting interrogations set forth in Government Code section 3303.

## Information Technology Use

### 342.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the proper use of department information technology resources, including computers, electronic devices, hardware, software and systems.

#### 342.1.1 DEFINITIONS

Definitions related to this policy include:

**Computer system** - All computers (on-site and portable), electronic devices, hardware, software, and resources owned, leased, rented or licensed by the Clovis Police Department that are provided for official use by its members. This includes all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the Department or department funding.

**Hardware** - Includes, but is not limited to, computers, computer terminals, network equipment, electronic devices, telephones, including cellular and satellite, pagers, modems or any other tangible computer device generally understood to comprise hardware.

**Software** - Includes, but is not limited to, all computer programs, systems and applications, including shareware. This does not include files created by the individual user.

**Temporary file, permanent file or file** - Any electronic document, information or data residing or located, in whole or in part, on the system including, but not limited to, spreadsheets, calendar entries, appointments, tasks, notes, letters, reports, messages, photographs or videos.

### 342.2 POLICY

It is the policy of the Clovis Police Department that members shall use information technology resources, including computers, software and systems, that are issued or maintained by the Department in a professional manner and in accordance with this policy.

### 342.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to emails, texts or anything published, shared, transmitted or maintained through file-sharing software or any Internet site that is accessed, transmitted, received or reviewed on any department computer system.

The Department reserves the right to access, audit and disclose, for whatever reason, any message, including attachments, and any information accessed, transmitted, received or reviewed over any technology that is issued or maintained by the Department, including the department email system, computer network and/or any information placed into storage on any department system or device. This includes records of all keystrokes or Web-browsing history made at any department computer or over any department network. The fact that access to a database, service or website requires a username or password will not create an expectation of privacy if it is accessed through department computers, electronic devices or networks.

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However, the Department may not require a member to disclose a personal username or password or open a personal social website, except when access is reasonably believed to be relevant to the investigation of allegations of work-related misconduct (Labor Code § 980).

#### **342.4 RESTRICTED USE**

Members shall not access computers, devices, software or systems for which they have not received prior authorization or the required training. Members shall immediately report unauthorized access or use of computers, devices, software or systems by another member to their supervisors or Watch Commanders.

Members shall not use another person's access passwords, logon information and other individual security data, protocols and procedures unless directed to do so by a supervisor.

##### **342.4.1 SOFTWARE**

Members shall not copy or duplicate any copyrighted or licensed software except for a single copy for backup purposes in accordance with the software company's copyright and license agreement.

To reduce the risk of a computer virus or malicious software, members shall not install any unlicensed or unauthorized software on any department computer. Members shall not install personal copies of any software onto any department computer.

When related to criminal investigations, software program files may be downloaded only with the approval of the information systems technology (IT) staff and with the authorization of the Chief of Police or the authorized designee.

No member shall knowingly make, acquire or use unauthorized copies of computer software that is not licensed to the Department while on department premises, computer systems or electronic devices. Such unauthorized use of software exposes the Department and involved members to severe civil and criminal penalties.

Introduction of software by members should only occur as part of the automated maintenance or update process of department- or City-approved or installed programs by the original manufacturer, producer or developer of the software.

Any other introduction of software requires prior authorization from IT staff and a full scan for malicious attachments.

##### **342.4.2 HARDWARE**

Access to technology resources provided by or through the Department shall be strictly limited to department-related activities. Data stored on or available through department computer systems shall only be accessed by authorized members who are engaged in an active investigation or assisting in an active investigation, or who otherwise have a legitimate law enforcement or department-related purpose to access such data. Any exceptions to this policy must be approved by a supervisor.

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#### **342.4.3 INTERNET USE**

Internet access provided by or through the Department shall be strictly limited to department-related activities. Internet sites containing information that is not appropriate or applicable to department use and which shall not be intentionally accessed include, but are not limited to, adult forums, pornography, gambling, chat rooms and similar or related Internet sites. Certain exceptions may be permitted with the express approval of a supervisor as a function of a member's assignment.

Downloaded information shall be limited to messages, mail and data files.

#### **342.4.4 OFF-DUTY USE**

Members shall only use technology resources provided by the Department while on-duty or in conjunction with specific on-call assignments unless specifically authorized by a supervisor. This includes the use of telephones, cell phones, texting, email or any other "off the clock" work-related activities. This also applies to personally owned devices that are used to access department resources.

Refer to the Personal Communication Devices Policy for guidelines regarding off-duty use of personally owned technology.

#### **342.5 PROTECTION OF AGENCY SYSTEMS AND FILES**

All members have a duty to protect the computer system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care and maintenance of the computer system.

Members shall ensure department computers and access terminals are not viewable by persons who are not authorized users. Computers and terminals should be secured, users logged off and password protections enabled whenever the user is not present. Access passwords, logon information and other individual security data, protocols and procedures are confidential information and are not to be shared. Password length, format, structure and content shall meet the prescribed standards required by the computer system or as directed by a supervisor and shall be changed at intervals as directed by IT staff or a supervisor.

It is prohibited for a member to allow an unauthorized user to access the computer system at any time or for any reason. Members shall promptly report any unauthorized access to the computer system or suspected intrusion from outside sources (including the Internet) to a supervisor.

#### **342.6 INSPECTION OR REVIEW**

A supervisor or the authorized designee has the express authority to inspect or review the computer system, all temporary or permanent files, related electronic systems or devices, and any contents thereof, whether such inspection or review is in the ordinary course of his/her supervisory duties or based on cause.

Reasons for inspection or review may include, but are not limited to, computer system malfunctions, problems or general computer system failure, a lawsuit against the Department

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involving one of its members or a member's duties, an alleged or suspected violation of any department policy, a request for disclosure of data, or a need to perform or provide a service.

The IT staff may extract, download or otherwise obtain any and all temporary or permanent files residing or located in or on the department computer system when requested by a supervisor or during the course of regular duties that require such information.

## **Report Preparation**

### **344.1 PURPOSE AND SCOPE**

Report preparation is a major part of each officer's job. The purpose of reports is to document sufficient information to refresh the officer's memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formalized training and on-the-job training.

#### **344.1.1 REPORT PREPARATION**

Employees should ensure that reports are sufficiently detailed for their purpose and free from errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports taken during the shift before going off-duty unless permission to hold the report has been approved by a supervisor. Generally, reports requiring prompt follow-up action on active leads, or arrest reports where the suspect remains in custody should not be held.

Handwritten reports must be prepared legibly. If the report is not legible, the submitting employee will be required by the reviewing supervisor to promptly make corrections and resubmit the report. Employees who dictate reports shall use appropriate grammar, as content is not the responsibility of the typist. Employees who generate reports on computers are subject to all requirements of this policy.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense, and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

### **344.2 REQUIRED REPORTING**

Written reports are required in all of the following situations on the appropriate department approved form unless otherwise approved by a supervisor.

#### **344.2.1 CRIMINAL ACTIVITY**

When a member responds to a call for service, or as a result of self-initiated activity becomes aware of any activity where a crime has occurred, the member shall document the incident regardless of whether a victim desires prosecution. Activity to be documented in a written report includes:

- (a) All arrests
- (b) All felony crimes
- (c) Non-Felony incidents involving threats or stalking behavior
- (d) Situations covered by separate policy. These include:
  - 1. Use of Force Policy

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2. Domestic Violence Policy
3. Child Abuse Policy
4. Adult Abuse Policy
5. Hate Crimes Policy
6. Suspicious Activity Reporting Policy

- (e) All misdemeanor crimes where the victim desires a report

Misdemeanor crimes where the victim does not desire a report shall be documented using the department-approved alternative reporting method (e.g., dispatch log).

#### 344.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented using the appropriate approved report:

- (a) Anytime an officer points a firearm at any person
- (b) Any use of force against any person by a member of this department (see the Use of Force Policy)
- (c) Any firearm discharge (see the Firearms Policy)
- (d) Anytime a person is reported missing, regardless of jurisdiction (see the Missing Persons Policy)
- (e) Any found property or found evidence
- (f) Any traffic collisions above the minimum reporting level (see Traffic Collision Reporting Policy)
- (g) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy
- (h) All protective custody detentions
- (i) Suspicious incidents that may place the public or others at risk
- (j) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor

#### 344.2.3 DEATH CASES

Death investigations require specific investigation methods depending on circumstances and should be handled in accordance with the Death Investigations Policy. The handling officer should notify and apprise a supervisor of the circumstances surrounding the incident to determine how to proceed. The following cases shall be appropriately investigated and documented using the approved report:

- (a) Sudden or accidental deaths.
- (b) Suicides.



## ***Report Preparation***

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- (c) Homicide or suspected homicide.
- (d) Unattended deaths (No physician or qualified hospice care in the 20 days preceding death).
- (e) Found dead bodies or body parts.

### **344.2.4 INJURY OR DAMAGE BY CITY PERSONNEL**

Reports shall be taken if an injury occurs that is a result of an act of a City employee. Additionally, reports shall be taken involving damage to City property or City equipment.

### **344.2.5 MISCELLANEOUS INJURIES**

Any injury that is reported to this department shall require a report when:

- (a) The injury is a result of drug overdose
- (b) Attempted suicide
- (c) The injury is major/serious, whereas death could result
- (d) The circumstances surrounding the incident are suspicious in nature and it is desirable to record the event

The above reporting requirements are not intended to be all-inclusive. A supervisor may direct an employee to document any Incident he/she deems necessary.

### **344.2.6 MANDATORY REPORTING OF JUVENILE GUNSHOT INJURIES**

A report shall be taken when any incident in which a child 18 years or younger suffered an unintentional or self-inflicted gunshot wound. The Records and Public Services shall notify the California Department of Public Health (CDPH) of the incident, on a form provided by the state. Forms may be obtained from the CDPH website (Penal Code § 23685).

## **344.3 GENERAL POLICY OF EXPEDITIOUS REPORTING**

In general, all officers and supervisors shall act with promptness and efficiency in the preparation and processing of all reports. An incomplete report, unorganized reports or reports delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or according to special priority necessary under exceptional circumstances.

### **344.3.1 GENERAL POLICY OF HANDWRITTEN REPORTS**

Some incidents and report forms lend themselves to block print rather than typing. In general, the narrative portion of those reports where an arrest is made or when there is a long narrative should be typed or dictated.

Supervisors may require, with the foregoing general policy in mind, block printing or typing of reports of any nature for departmental consistency.

*Report Preparation*

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**344.3.2 GENERAL USE OF OTHER HANDWRITTEN FORMS**

County, state and federal agency forms may be block printed as appropriate. In general, the form itself may make the requirement for typing apparent.

**344.4 REPORT CORRECTIONS**

Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should complete a "Sticky Note" In New World stating the reasons for rejection. The original report should be returned to the reporting employee for correction as soon as practical. It shall be the responsibility of the originating officer to ensure that any report returned for correction is processed in a timely manner.

**344.5 REPORT CHANGES OR ALTERATIONS**

Reports that have been approved by a supervisor and submitted to the Records and Public Services for filing and distribution shall not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been submitted to the Records and Public Services may be corrected or modified by the authoring officer only with the knowledge and authorization of the reviewing supervisor.

## Media Relations

### 346.1 PURPOSE AND SCOPE

This policy provides guidelines for media releases and media access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities.

### 346.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief of Police, however, in situations not warranting immediate notice to the Chief of Police and in situations where the Chief of Police has given prior approval, Division Commanders, Watch Commanders and designated Public Information Officer(s) may prepare and release information to the media in accordance with this policy and the applicable law.

#### 346.2.1 MEDIA REQUEST

Any media request for information or access to a law enforcement situation shall be referred to the designated department media representative, or if unavailable, to the first available supervisor. Prior to releasing any information to the media, employees shall consider the following:

- (a) At no time shall any employee of this department make any comment or release any official information to the media without prior approval from a supervisor or the designated department media representative.
- (b) In situations involving multiple law enforcement agencies, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this department.
- (c) Under no circumstance should any member of this department make any comments to the media regarding any law enforcement incident not involving this department without prior approval of the Chief of Police.

### 346.3 MEDIA ACCESS

Authorized members of the media shall be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities subject to the following conditions (Penal Code § 409.5(d)):

- (a) The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.
- (b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.
  - 1. Reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should

# Clovis Police Department

## Clovis Police Department Policy Manual

### *Media Relations*

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be coordinated through the department Public Information Officer or other designated spokesperson.

2. Whenever the presence of media or other aircraft pose a threat to public or officer safety or significantly hampers incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Watch Commander. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration should be contacted (14 CFR 91.137).
- (c) No member of this department who is under investigation shall be subjected to media visits or interviews without the consent of the involved employee (Government Code § 3303(e)).
- (d) Media interviews with individuals who are in custody should not be permitted without the approval of the Chief of Police and the express consent of the person in custody.

A tactical operation should be handled in the same manner as a crime scene, except the news media shall be permitted within the outer perimeter of the scene, subject to any restrictions as determined by the supervisor in charge. Department members shall not jeopardize a tactical operation in order to accommodate the news media. All comments to the media shall be coordinated through a supervisor or the Public Information Officer.

#### **346.4 SCOPE OF INFORMATION SUBJECT TO RELEASE**

The Department will maintain a daily information log of significant law enforcement activities that shall be made available, upon request, to media representatives through the Watch Commander. This log will generally contain the following information:

- (a) The date, time, location, case number, type of crime, extent of injury or loss, and names of individuals (except confidential informants) involved in crimes occurring within this jurisdiction unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation
- (b) The date, time, location, case number, name, birth date and charges for each person arrested by this department unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation
- (c) The time and location of other significant law enforcement activities or requests for service with a brief summary of the incident subject to the restrictions of this policy and applicable law

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### ***Media Relations***

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At no time shall identifying information pertaining to a juvenile arrestee (13 years of age and under), victim or witness be publicly released without prior approval of a competent court. The identity of a minor 14 years of age or older shall not be publicly disclosed unless the minor has been arrested for a serious felony and the release of such information has been approved by the Watch Commander (Welfare and Institutions Code § 827.5).

Identifying information concerning deceased individuals shall not be released to the media until notification of next of kin or otherwise cleared through the Coroner's Office.

Any requests for copies of related reports or additional information not contained in this log shall be referred to the designated department media representative, the custodian of records, or if unavailable, to the Watch Commander. Such requests will generally be processed in accordance with the provisions of the Public Records Act (Government Code § 6250, et seq.).

#### **346.4.1 RESTRICTED INFORMATION**

It shall be the responsibility of the authorized employee dealing with media requests to ensure that restricted information is not inappropriately released to the media by this department. When in doubt, authorized and available legal counsel should be obtained. Examples of such restricted information include, but are not limited to:

- (a) Confidential peace officer personnel information (See the Personnel Files Policy)
  - 1. The identities of officers involved in shootings or other major incidents may only be released to the media pursuant to consent of the involved officer or upon a formal request filed and processed in accordance with the Public Records Act.
- (b) Copies of traffic collision reports (except to the involved parties and their authorized representatives) (Vehicle Code § 20012)
- (c) Criminal history information
- (d) Information that would tend to endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation
- (e) Information pertaining to pending litigation involving this department
- (f) Information obtained in confidence
- (g) Any information that is otherwise privileged or restricted under state or federal law. (Government Code § 6254(k)).

#### **346.5 MEDIA INQUIRIES REGARDING WRITTEN/AUDIO/VIDEO RECORDS**

The Clovis Police Department responds to media inquiries in a timely fashion with as much information as possible as required by law (GC § 6250, et seq). It also by law (GC § 6254 (f)) reserves its right to protect information so as to neither jeopardize an on-going investigation nor infringe upon individuals' privacy rights.

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- (a) It is the Clovis Police Department's policy to retain written police reports on paper or electronically.
  - 1. The information on the face sheet of the police report, with the exception of information pertaining to confidential victims, will be released to the media upon request as dictated by law.
  - 2. The information contained within an individual police report will be provided to the media through a member of its Public Information Officer (PIO) team, Division Commander or Watch Commander.
    - (a) It is the policy of the Clovis Police Department to furnish information, not a physical copy of the report to the media. State law prohibits officers' conclusions in reports to be furnished to the media or the public at large.
    - (b) Only at the discretion of the Chief of Police would a physical police report be provided to the media. The Chief would make such a decision on a case-by-case basis.
  - 3. A public copy of the Daily Log is always available for media viewing upon request in the police department lobby during normal business hours.
  - 4. Members of the media whose employees or co-workers are named in a case will not receive preferential treatment when it comes to access to a police report or investigation information. Only if the media organization (newspaper, television station, radio station etc.) were an "involved party" in the case would it be eligible to receive a copy of that particular report.
  - 5. It is incumbent upon members of the media to do research through the court system if they require criminal history on an arrestee. By law, police departments in California cannot provide that information. Release of information on any prior contact officers have made with an arrestee are also prohibited.
- (b) It is the Clovis Police Department's policy to retain audio and video recordings from two weeks to two years, depending upon the medium and frequency of use.
  - (a) It is up to the individual officer's discretion if any audio or video recordings are made in the field (Officers are not required to record in-field interviews). It is recommended that recordings be retained a minimum of two weeks, if not retained as evidence in a case.
    - (a) The contents of such recordings will be found in written police reports. The PIO, Division Commander, or Watch Commander may release that information, unless it's part of an on-going investigation or violates an individual's privacy rights.
  - (b) Video or audio recorded interviews in department interview rooms at headquarters are retained until a case is adjudicated.

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- (a) Those recordings are subject to disclosure only through court proceedings.
- (b) The contents of such recordings will be found in written police reports. The PIO, Division Commander, or Watch Commander may release that information, unless it's part of an on-going investigation or violates an individual's privacy rights.
- (c) Surveillance video recorded in the department's jail facility is retained for two years, unless it is needed longer as evidence in a case.
  - (a) Those recordings are subject to disclosure only through court proceedings.
- (d) Surveillance video recorded on any of the department's cameras located at intersections, on the City's water tower or along the City Trail underpasses is retained for two weeks, unless it is needed longer as evidence in a case.
  - (a) Those recordings are subject to disclosure if the department is looking for a suspect on the tape, at the discretion of the Chief of Police, or through court proceedings.
- (e) In the Ride-Along section (410) of the Clovis Police Department Policy Manual, citizens who participate in the ride-along program are "observers" who "experience police function first hand."
  - (a) In their roles as ride-along observers, they will leave cameras, audio recorders and all other electronic devices at home or in their personal vehicles, parked at the station.
  - (b) As pre-arranged through either the PIO or Watch Commander, a television news photographer may shoot video while riding with an officer for a specific story or event.
- (f) Audio recordings of 9-1-1 emergency telephone calls are retained for two years, unless they are needed longer as evidence in a case.
  - (a) Public release of 9-1-1 emergency calls can encroach upon the privacy rights of those whose voices can be heard on the tape. Therefore, a Division Commander or the Chief of Police will evaluate the release of any such audio to the media on a case-by-case basis. A media organization must provide a compelling reason as to why it needs the audio.
  - (b) If a media request for an audio dub is not granted, the PIO or Watch Commander may provide a written transcript of the call for help as long as the information is not part of an on-going investigation or will infringe upon an individual's privacy rights.
- (g) Audio tapes of radio transmissions between officers and dispatchers are retained for two years.

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- (a) It is the policy of the Clovis Police Department to furnish information contained therein, not an audio reproduction, to the media as long as the information is not part of an on-going investigation or will infringe upon an individual's privacy rights.
- (h) Computer Aided Dispatch (CAD) text messages are retained for as long as 45 days. CAD Administrative Messages are retained for six months.
  - (a) It is the policy of the Clovis Police Department to furnish information contained therein, not a physical copy of the messages, to the media.
  - (b) Information that is part of an on-going investigation or would violate privacy rights will be redacted.
  - (c) Only by court order will a physical copy of the text messaging be provided to the media.
- (i) Booking Photos
  - (a) Clovis Police will release Clovis booking photos under the following conditions:
    - (a) Officers are looking for a suspect and are asking for the public's help.
    - (b) Officers have made an arrest(s) and the case is closed.
  - (b) Booking Photos will not be immediately available under the following conditions:
    - (a) If release of the photo(s) will compromise the investigation.
    - (b) If live or photo line-ups need to be completed after an arrest is made.
    - (c) If another law enforcement agency requests it not be released because it might hamper its investigation or it needs to do a line-up with the same suspect.
- (j) It is the Clovis Police Department's policy to retain statistical and historical information indefinitely at department headquarters and in City storage areas.
  - (a) If the information a media organization requests is readily available, it will be provided as quickly as possible.
  - (b) Should the information a media organization requests be filed somewhere other than police headquarters or is simply difficult to locate, the department will have up to fifteen business days to produce that information.
- (k) Documentation requested may carry a fee depending upon the type of reproduction required.



## Subpoenas and Court Appearances

### 348.1 PURPOSE AND SCOPE

This procedure has been established to provide for the acceptance of subpoenas and to ensure that employees appear when subpoenaed, or are available to appear in court when requested and present a professional appearance.

#### 348.1.1 DEFINITIONS

**On-Call** - When an employee has appeared in court, or is at the time on-duty, and has been told by a member of the court that he/she is free to leave the court or return to duty, subject to being available by phone or pager if called back.

**Standby** - When an employee receives a subpoena of a type which allows him or her to not appear in court, but remain available by phone or pager so that he or she may be directed to appear in court within a reasonable amount of time.

**Trailing Status** - When an employee remains on standby status for additional court sessions until notified otherwise.

**Mandatory Appearance** - Subpoenas marked as mandatory appearance require an employee's physical appearance in the specified court. Failure to timely appear in the specified court, either intentionally or by negligence, may result in disciplinary action.

### 348.2 COURT SUBPOENAS

Employees who receive subpoenas related to their employment with this department are subject to the provisions of this policy. Employees should be aware that their compliance is mandatory on all cases for which they have been properly subpoenaed, or properly notified. This policy applies to civil and criminal subpoenas. Employees are expected to cooperate with the prosecution to ensure the successful conclusion of a case.

#### 348.2.1 SERVICE OF SUBPOENA

Service of a subpoena requiring the appearance of any department employee in connection with a matter arising out of the employee's course and scope of official duties may be accomplished by personal service on the employee or by delivery of two copies of the subpoena on the employee's supervisor or other authorized departmental agent (Government Code § 68097.1 and Penal Code § 1328(c)). Subpoena service is also acceptable by courier or court liaison from the court to this department.

Once the subpoena is received, it will be served to the officer/employee via the Outlook email/calendar program.

#### Outlook Subpoena Procedure

The subpoena clerks will attach a copy of the subpoena from the DA's office to an outlook calendar invite/email. This "Invite" will be emailed to each officer listed on the subpoena and will include the case number, defendant name, date/time of appearance and location. Once the invite is sent, it

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### Subpoenas and Court Appearances

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will arrive in the Officers Outlook email inbox. Officers are required to respond to the invite within 48 hours of being viewed. Officers are reminded that they are required to check their department email at least once a day while on duty.

Once the invite has been accepted, the system will automatically add it into each Officers outlook calendar for future viewing. By accepting the Invite, the Officer has been officially "served", and is expected to be present in court unless cancelled. If the Officer is unable to attend the court appearance for a valid and accepted reason, the Officer may "decline" the subpoena. If the subpoena is declined, the Officer must provide a written explanation in the memo area to justify the decline.

Valid reasons for declining a subpoena include:

- Scheduled Vacation
- Out of town training
- Medical Leave

#### 348.2.2 VALID SUBPOENAS

No subpoena shall be accepted for an employee of this department unless it has been properly served and verified to have originated from a recognized legal authority.

#### 348.2.3 ACCEPTANCE OF SUBPOENA

- (a) Only the employee named in a subpoena, his/her immediate supervisor or the department subpoena clerk shall be authorized to accept service of a subpoena. (Penal Code § 1328(c)). Any authorized employee accepting a subpoena shall immediately provide a copy of the subpoena to the department subpoena clerk. The subpoena clerk shall maintain a chronological log of all department subpoenas and provide a copy of the subpoena to each involved employee.
- (b) Once a subpoena has been received by a supervisor or other authorized individual, a copy of the subpoena shall be promptly provided to the subpoena clerk as well as a copy to the individually named employee. This copy may be delivered by using the Outlook email\calendar program.

#### 348.2.4 REFUSAL OF SUBPOENA

Except where previous arrangements with the issuing court exist, training and regularly scheduled days off are not valid reasons for refusing a subpoena or missing court. If, due to illness or injury, the named employee is unable to appear in court as directed by a previously served subpoena, he/she shall, at least one hour before the appointed date and time, inform the subpoena clerk or the Watch Commander of his/her absence. It shall then be the responsibility of the subpoena clerk to notify the issuing authority of the employee's unavailability to appear.

If the immediate supervisor or other authorized individual knows that he/she will be unable to deliver a copy of the subpoena to the named employee within sufficient time for the named

### ***Subpoenas and Court Appearances***

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employee to comply with the subpoena, the supervisor or other authorized individual may refuse to accept service (Penal Code § 1328(d)).

If a subpoena is presented for service to an immediate supervisor or other authorized individual less than five working days prior to the date listed for an appearance and the supervisor or other authorized individual is not reasonably certain that the service can be completed, he/she may refuse to accept service (Penal Code § 1328(e)).

If, after initially accepting service of a subpoena, a supervisor or other authorized individual determines that he/she will be unable to deliver a copy of the subpoena to the individually named employee within sufficient time for the named employee to comply with the subpoena, the supervisor or the subpoena clerk shall notify the server or the attorney named on the subpoena of such not less than 48 hours prior to the date listed for the appearance (Penal Code § 1328(f)).

#### **348.2.5 COURT STANDBY**

To facilitate court standby agreements with the courts, employees are required to provide and maintain current information on their address and phone number with the Department. Employees are required to notify the Department within 24 hours of any change in residence address or home phone number, and to provide accurate and reasonably reliable means or methods for contact.

If an employee on standby changes his/her location during the day, the employee shall notify the subpoena clerk of how he/she can be reached by telephone. In a criminal case the Deputy District Attorney handling the case or his/her designee is the only person authorized to excuse an employee from standby status.

#### **348.2.6 OFF-DUTY RELATED SUBPOENAS**

Employees receiving valid subpoenas for actions taken off-duty not related to their employment with Clovis Police Department shall comply with the requirements of the subpoena. Employees receiving these subpoenas are not compensated for their appearance unless the incident was a result of police action taken in the performance of his/her duty as a police officer and arrangements for time off shall be coordinated through their immediate supervisor.

#### **348.2.7 FAILURE TO APPEAR**

Any employee who fails to comply with the terms of any valid and properly served subpoena may be subject to discipline as well as court imposed civil and/or criminal sanctions.

### **348.3 CIVIL SUBPOENAS**

The Department will compensate employees who appear in their official capacity on civil matters arising out of the employee's official duties as directed by the current Memorandum of Understanding. In such situations, the Department will also reimburse any officer for reasonable and necessary travel expenses.

The Department will receive reimbursement for the officer's compensation through the civil attorney of record who subpoenaed the officer.

## ***Subpoenas and Court Appearances***

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### **348.3.1 PROCEDURE**

To ensure that the officer is able to appear when required, that the officer is compensated for such appearance, and to protect the Department's right to reimbursement, officers shall follow the established procedures for the receipt of a civil subpoena.

### **348.3.2 CIVIL SUBPOENA ACCEPTANCE**

Subpoenas shall not be accepted in a civil action in which the officer or Department is not a party without properly posted fees pursuant to Government Code § 68097.6.

### **348.3.3 PARTY MUST DEPOSIT FUNDS**

The party in the civil action that seeks to subpoena an officer must deposit the statutory fee of \$275 (Government Code § 68097.2) for each appearance before such subpoena will be accepted. Parties seeking to have the officer make multiple appearances must make an additional deposit in advance.

### **348.4 OVERTIME APPEARANCES**

If the officer appeared on his/her off-duty time, he/she will be compensated in accordance with the current employee Memorandum of Understanding.

The overtime on such appearance will be paid from the time the officer left his/her residence until he/she returned.

### **348.5 COURTROOM PROTOCOL**

Employees must be punctual when appearing in court and shall be prepared to proceed immediately with the case for which they are subpoenaed.

#### **348.5.1 PREPARATION FOR TESTIMONY**

Before the date of testifying, the subpoenaed officer shall request a copy of relevant reports and become familiar with their content in order to be prepared for court.

#### **348.5.2 COURTROOM ATTIRE**

Employees shall dress in uniform or business attire. Suitable business attire for men would consist of a coat, tie, and dress pants. Suitable business attire for female employees would consist of a dress jacket, dress blouse, and skirt or slacks.

### **348.6 COURTHOUSE DECORUM**

Employees shall observe all rules of the court in which they are appearing, refrain from smoking or chewing gum in the courtroom, and shall remain alert to changes in the assigned courtroom where their matter is to be heard.

### **348.7 TESTIFYING AGAINST THE INTEREST OF THE PEOPLE OF THE STATE**

Any member or employee who is subpoenaed to testify, who has agreed to testify, or who anticipates testifying or providing information on behalf of or at the request of any party other than the People of the State of California, any county, any city, or any of their officers and employees

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### Subpoenas and Court Appearances

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in which any of those entities are parties, will notify their immediate supervisor without delay. The supervisor will then notify the Chief of Police, District Attorney's Office in criminal cases, County Counsel or City Attorney, as may be indicated by the case.

This includes, but is not limited to the following situations:

- (a) Providing testimony or information for the defense in any criminal trial or proceeding;
- (b) Providing testimony or information for the plaintiff in a civil proceeding against any county, any city, or their officers and employees; or
- (c) Providing testimony or information on behalf of or at the request of any party other than any County, city, or any county or city official in any administrative proceeding, including but not limited to personnel and/or disciplinary matter.
- (d) Providing "expert" testimony in a private capacity where they identify themselves as department employees or use expertise garnered as a department employer.

## **Reserve Officers**

### **350.1 PURPOSE AND SCOPE**

The Clovis Police Department Reserve Unit was established to supplement and assist regular sworn police officers in their duties. This unit provides professional, sworn volunteer reserve officers who can augment regular staffing levels.

### **350.2 SELECTION AND APPOINTMENT OF POLICE RESERVE OFFICERS**

The Clovis Police Department shall endeavor to recruit and appoint to the Reserve Unit only those applicants who meet the high ethical, moral and professional standards set forth by this department.

#### **350.2.1 PROCEDURE**

All applicants shall be required to meet and pass the same pre-employment procedures as regular police officers before appointment.

Before appointment to the Police Reserve Unit, an applicant must have completed, or be in the process of completing, a POST approved basic academy or extended basic academy, or have a Level III, Level II, or Level I certificate.

#### **350.2.2 APPOINTMENT**

Applicants who are selected for appointment to the Police Reserve Unit shall, on the recommendation of the Chief of Police, be sworn in by the Chief of Police and take a loyalty oath to observe and obey all of the laws of the land and to carry out their duties to the best of their ability. Reserve Officers will receive a designated Level appointment based on the highest degree of successfully completed training from a POST approved basic or extended basic academy.

### **350.3 DUTIES OF RESERVE OFFICERS**

Reserve officers assist regular officers in the enforcement of laws and in maintaining peace and order within the community. Assignments of reserve officers will usually be to augment the Patrol Division. Reserve officers may be assigned to other areas within the Department as needed. Reserve officers are required to perform a minimum of 16 hours of qualified service per month. Qualified service will be determined by the Reserve Unit Coordinator. The 16 hour a month service requirement can be an average within a 3 year period. Those qualified hours will be documented in a manner approved by the Unit Coordinator and records maintained for a reasonable term.

#### **350.3.1 POLICY COMPLIANCE**

Police reserve officers shall be required to adhere to all departmental policies and procedures. A copy of the policies and procedures will be made available to each reserve officer upon appointment and he/she shall become thoroughly familiar with these policies.

Whenever a rule, regulation, or guideline in this manual refers to a sworn regular full-time officer, it shall also apply to a sworn reserve officer unless by its nature it is inapplicable.

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## *Reserve Officers*

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### **350.3.2 RESERVE OFFICER ASSIGNMENTS**

All reserve officers will be assigned to duties by the Reserve Coordinator or his/her designee. A Reserve Officer's assignment may differ from duties allowed by POST based upon their Level appointment.

### **350.3.3 RESERVE COORDINATOR**

The Chief of Police shall delegate the responsibility for administering the Reserve Officer Program to a Reserve Coordinator.

The Reserve Coordinator shall have the responsibility of, but not be limited to:

- (a) Assignment of reserve personnel
- (b) Conducting reserve meetings
- (c) Monitoring individual reserve officer performance
- (d) Monitoring overall Reserve Program
- (e) Maintaining liaison with other agency Reserve Coordinators

### **350.4 FIELD TRAINING**

Penal Code § 832.6 requires Level II reserve officers, who have not been released from the Immediate supervision requirement per the Completion of the Formal Training Process subsection, to work under the immediate supervision of a peace officer who possesses a Basic POST Certificate.

#### **350.4.1 TRAINING OFFICERS**

Officers of this department, who demonstrate a desire and ability to train reserve officers, may train the reserves during Phase II, subject to Watch Commander approval.

#### **350.4.2 PRIMARY TRAINING OFFICER**

Upon completion of the Academy, reserve officers will be assigned to a primary training officer. The primary training officer will be selected from members of the Field Training Officer (FTO) Committee. The reserve officer will be assigned to work with his/her primary training officer during the first 160 hours of training. This time shall be known as the Primary Training Phase.

#### **350.4.3 FIELD TRAINING MANUAL**

Each new reserve officer will be issued a Field Training Manual at the beginning of his/her Primary Training Phase. This manual is an outline of the subject matter and/or skills necessary to properly function as an officer with the Clovis Police Department. The reserve officer shall become knowledgeable of the subject matter as outlined. He/she shall also become proficient with those skills as set forth in the manual.

## ***Reserve Officers***

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### **350.4.4 COMPLETION OF THE PRIMARY TRAINING PHASE**

At the completion of the Primary Training Phase, (Phase I) the primary training officer will meet with the Reserve Coordinator. The purpose of this meeting is to discuss the progress of the reserve officer in training.

If the reserve officer has progressed satisfactorily, he/she will then proceed to Phase II of the training. If he/she has not progressed satisfactorily, the Reserve Coordinator will determine the appropriate action to be taken.

### **350.4.5 SECONDARY TRAINING PHASE**

The Secondary Training Phase (Phase II) shall consist of 100 hours of additional on-duty training. The reserve officer will no longer be required to ride with his/her primary training officer. The reserve officer may now ride with any officer designated by the Watch Commander.

During Phase II of training, as with Phase I, the reserve officer's performance will be closely monitored. In addition, rapid progress should continue towards the completion of the Officer's Field Training Manual. At the completion of Phase II of training, the reserve officer will return to his/her primary training officer for Phase III of the training.

### **350.4.6 THIRD TRAINING PHASE**

Phase III of training shall consist of 24 hours of additional on-duty training. For this training phase, it is recommended that the reserve officer will return to his/her original primary training officer, if feasible. During this phase, the training officer will evaluate the reserve officer for suitability to graduate from the formal training program.

At the completion of Phase III training, the primary training officer will meet with the Reserve Coordinator. Based upon the reserve officer's evaluations, plus input from the primary training officer, the Reserve Coordinator shall decide if the reserve officer has satisfactorily completed his/her formal training. If the reserve officer has progressed satisfactorily, he/she will then graduate from the formal training process. If his/her progress is not satisfactory, the Reserve Coordinator will decide upon the appropriate action to be taken.

### **350.4.7 COMPLETION OF THE FORMAL TRAINING PROCESS**

When a reserve officer has satisfactorily completed all three phases of formal training, he/she will have had a minimum of 284 hours of on-duty training. He/she will no longer be required to ride with a reserve training officer. The reserve officer may now be assigned to ride with any officer for the remaining 200-hour requirement for a total of 484 hours before being considered for relief of immediate supervision.

## **350.5 SUPERVISION OF RESERVE OFFICERS**

Reserve officers having attained the status of Level III, who have successfully completed Modules III (Minimum of 144 hours of instruction and training by a POST approved academy, and in good standing of their POST Continued Police Training) shall be under the direct supervision in the accessible vicinity of a Level I Reserve or regular full-time Peace Officer. (Penal Code 830.6(a)(1) and Penal Code 832.6(a)(3))



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### Reserve Officers

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Reserve officers having attained the status of Level II, who have successfully completed Modules III and II (Minimum of 333 hours of instruction and training by a POST approved academy, and in good standing of their POST Continued Police Training) shall be under the immediate supervision of a Peace Officer who has completed the POST Basic Course, but does not have to possess a Basic Certificate. (Penal Code 832.6(a)(2)).

The immediate supervision requirement shall also continue for reserve officers who have attained Level I and /or Level I/24 status, who have successfully completed a POST approved Regular Or Modular Basic Course (Minimum of 664 hours of instruction and training by a POST approved academy, and in good standing of their POST Continued Police Training) unless special authorization is received from the Reserve Coordinator with the approval of the Division Commander.

#### 350.5.1 SPECIAL AUTHORIZATION REQUIREMENTS

Reserve officers certified as Level I may, with prior authorization of the Reserve Coordinator and on approval of the Division Commander, be relieved of the "immediate supervision" requirement. This authorization will be determined based upon the Reserve Officers successful completion of 400 hours of field training within an 18 month period, compliance with all policies, and continued acquisition of required and qualified POST Continued Police Training. Level I reserve officers may function under the authority of Penal Code § 832.6(a)(1) only for the duration of the assignment or purpose for which the authorization was granted.

In the absence of the Reserve Coordinator and the Division Commander, the Watch Commander may assign a certified Level I reserve officer to function under the authority of Penal Code § 832.6(a)(1) for specific purposes and duration.

#### 350.5.2 RESERVE OFFICER MEETINGS

All reserve officer meetings will be scheduled and conducted by the Reserve Coordinator. All reserve officers are required to attend scheduled meetings. Any absences must be satisfactorily explained to the Reserve Coordinator.

#### 350.5.3 IDENTIFICATION OF RESERVE OFFICERS

All reserve officers will be Issued a uniform badge and a Department identification card. The uniform badge shall be the same as that worn by a regular full-time officer. The identification card will be the standard identification card with the exception that "Reserve" will be indicated on the card.

#### 350.5.4 UNIFORM

Reserve officers shall conform to all uniform regulation and appearance standards of this department. Uniforms will generally be purchased at the Reserve Officer's expense. Other basic equipment will be provided by the Department.

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### *Reserve Officers*

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#### **350.5.5 INVESTIGATIONS AND COMPLAINTS**

If a reserve officer has a complaint made against him/her or becomes involved in an internal investigation, that complaint or internal investigation may be investigated by the Reserve Coordinator, or other designee, at the discretion of the Patrol Division Commander.

Reserve officers are considered at-will employees. Government Code § 3300 et seq. applies to reserve officers with the exception that the right to hearing is limited to the opportunity to clear their name.

Any disciplinary action that may have to be administered to a reserve officer shall be accomplished as outlined in the Policy Manual.

#### **350.5.6 RESERVE OFFICER EVALUATIONS**

While in training reserves will be continuously evaluated using standardized daily and weekly observation reports. The reserve will be considered a trainee until all of the training phases have been completed. Reserves having completed their field training will be evaluated annually using performance dimensions applicable to the duties and authorities granted to that reserve.

#### **350.6 FIREARMS REQUIREMENTS**

Penal Code § 830.6(a)(1) designates a reserve officer as having peace officer powers during his/her assigned tour of duty, provided the reserve officer qualifies or falls within the provisions of Penal Code § 832.6.

##### **350.6.1 CARRYING WEAPON ON DUTY**

Penal Code § 830.6(a)(1) permits qualified reserve officers to carry a loaded firearm while on-duty. In regards to carrying weapons on duty, reserve officers will be held to the same standards as sworn police officers as outlined and defined by policy. Before being allowed to carry any optional firearm during an assigned tour of duty, the reserve officer shall have demonstrated his/her proficiency with said weapon.

##### **350.6.2 CONCEALED FIREARMS PROHIBITED**

All Level I and Level II off duty reserve officers who are in compliance with all department policies, training requirements, and are in good standing with the unit and are not otherwise prohibited from carrying a firearm, are allowed to carry a qualified firearm off duty. This is established per PC830.6 which defines appointed reserve police officers as a peace officer, and the Law Enforcement Officers' Safety Act (LEOSA, H.R. 218), and its amendments, which exempts qualified and retired law enforcement officers from local and State prohibitions on the carrying of a concealed firearm.

Level III reserve officers are not authorized to carry off duty unless they possess a current CCW permit issued by the local authority.

##### **350.6.3 RESERVE OFFICER FIREARM TRAINING**

All reserve officers are required to maintain proficiency with firearms used in the course of their assignments. Reserve officers shall comply with all areas of the firearms training section of the Policy Manual and adhere to the same standards set for a full time officer.

*Reserve Officers*

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**350.7 EMERGENCY CALL-OUT FOR RESERVE PERSONNEL**

The Reserve Coordinator shall develop a plan outlining an emergency call-out procedure for reserve personnel.

## **Outside Agency Assistance**

### **352.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidance to officers in the request of or answering the request for assistance involving another law enforcement agency.

It is the policy of this department to provide assistance whenever possible, consistent with the applicable laws of arrest and detention policies of this department, when another law enforcement agency requests assistance with an arrest or detention of any person. This department may also request an outside agency to provide assistance.

#### **352.1.1 ASSISTING OUTSIDE AGENCIES**

Generally, calls for assistance from other agencies are routed to the Watch Commander's office for approval. When an authorized employee of an outside agency requests the assistance of this department in taking a person into custody, available officers shall respond and assist in making a lawful arrest. If an officer receives a request in the field for assistance, that officer shall notify a supervisor. Arrestees may be temporarily detained by our agency until arrangements for transportation are made by the outside agency. Only in exceptional circumstances should this department provide transportation of arrestees to other county facilities.

When such assistance is rendered, a case number will be issued to document actions taken by Clovis Police Department Personnel.

#### **352.1.2 REQUESTING ASSISTANCE FROM OUTSIDE AGENCIES**

If assistance is needed from another agency, the employee requesting assistance shall first notify a supervisor of his/her intentions.

## Registered Offender Information

### 356.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the Clovis Police Department will address issues associated with certain offenders who are residing in the jurisdiction and how the Department will disseminate information and respond to public inquiries for information about registered sex, arson and drug offenders.

### 356.2 POLICY

It is the policy of the Clovis Police Department to identify and monitor registered offenders living within this jurisdiction and to take reasonable steps to address the risks those persons may pose.

### 356.3 REGISTRATION

The Investigations supervisor shall establish a process to reasonably accommodate registration of certain offenders. The process should rebut any allegation on the part of the offender that the registration process was too confusing, burdensome or difficult for compliance. If it is reasonable to do so, an investigator assigned to related investigations should conduct the registration in order to best evaluate any threat the person may pose to the community. Those assigned to register offenders should receive appropriate training regarding the registration process.

Upon conclusion of the registration process, the investigator shall ensure that the registration information is provided to the California Department of Justice (DOJ) in accordance with applicable law (Health and Safety Code § 11594; Penal Code § 457.1; Penal Code § 290 et seq.).

The refusal of a registrant to provide any of the required information or complete the process should initiate a criminal investigation for failure to register.

#### 356.3.1 CONTENTS OF REGISTRATION

The information collected from the registering offenders shall include a signed statement as required by the California DOJ, fingerprints and a photograph and any other information required by applicable law (Health and Safety Code § 11594; Penal Code § 457.1; Penal Code § 290 et seq.).

### 356.4 MONITORING OF REGISTERED OFFENDERS

The Investigations supervisor should establish a system to periodically, and at least once annually, verify that a registrant remains in compliance with his/her registration requirements after the initial registration. This verification should include:

- (a) Efforts to confirm residence using an unobtrusive method, such as an internet search or drive-by of the declared residence.
- (b) Review of information on the California DOJ website for sex offenders.
- (c) Contact with a registrant's parole or probation officer.

Any discrepancies should be reported to the California DOJ.

### ***Registered Offender Information***

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The Investigations supervisor should also establish a procedure to routinely disseminate information regarding registered offenders to Clovis Police Department personnel, including timely updates regarding new or relocated registrants.

#### **356.5 DISSEMINATION OF PUBLIC INFORMATION**

Members will not unilaterally make a public notification advising the community of a particular registrant's presence in the community. Members who identify a significant risk or other public safety issue associated with a registrant should promptly advise their supervisor. The supervisor should evaluate the request and forward the information to the Chief of Police if warranted. A determination will be made by the Chief of Police, with the assistance of legal counsel as necessary, whether such a public alert should be made.

Members of the public requesting information on sex registrants should be provided the Megan's Law website or the Clovis Police Department's website. Information on sex registrants placed on the Clovis Police Department's website shall comply with the requirements of Penal Code § 290.46.

The Records Supervisor may release local registered offender information to residents only in accordance with applicable law (Penal Code § 290.45; Penal Code § 290.46; Penal Code § 457.1; Health and Safety Code § 11594), and in compliance with a California Public Records Act (Government Code § 6250-6276.48) request.

##### **356.5.1 LIMITED RELEASE WITHIN COLLEGE CAMPUS COMMUNITY**

California law allows the following additional information regarding a registered sex offender on campus, whose information is not available to the public via the internet website, to be released to a campus community (Penal Code § 290.01(d)):

- (a) The offender's full name
- (b) The offender's known aliases
- (c) The offender's sex
- (d) The offender's race
- (e) The offender's physical description
- (f) The offender's photograph
- (g) The offender's date of birth
- (h) Crimes resulting in the registration of the offender under Penal Code § 290
- (i) The date of last registration

For purposes of this section, campus community shall be defined as those persons present at or regularly frequenting any place constituting campus property, satellite facilities, laboratories, public areas contiguous to the campus and other areas set forth in Penal Code § 290.01(d).

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## Clovis Police Department Policy Manual

### *Registered Offender Information*

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#### 356.5.2 RELEASE NOTIFICATIONS

Registrant information that is released should include notification that:

- (a) The offender registry includes only those persons who have been required by law to register and who are in compliance with the offender registration laws.
- (b) The information is provided as a public service and may not be current or accurate.
- (c) Persons should not rely solely on the offender registry as a safeguard against offenses in their communities.
- (d) The crime for which a person is convicted may not accurately reflect the level of risk.
- (e) Anyone who uses information contained in the registry to harass registrants or commit any crime may be subject to criminal prosecution.
- (f) The purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders (Penal Code 290.45).

## Major Incident Notification

### 358.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of this department in determining when, how and to whom notification of major incidents should be made.

### 358.2 POLICY

The Clovis Police Department recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of this department to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

### 358.3 MINIMUM CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Chief of Police and the affected Division Commander. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

- Homicides
- Traffic accidents with fatalities
- Officer-involved shooting - on or off duty (see Officer-Involved Shootings and Deaths Policy for special notifications)
- Significant injury or death to employee - on or off duty
- Death of a prominent Clovis official
- Arrest of a department employee or prominent Clovis official
- Aircraft crash with major damage and/or injury or death
- In-custody deaths

### 358.4 WATCH COMMANDER RESPONSIBILITY

The Watch Commander is responsible for making the appropriate notifications. The Watch Commander shall make reasonable attempts to obtain as much information on the incident as possible before notification. The Watch Commander shall attempt to make the notifications as soon as practicable. Notification should be made by calling the home telephone number first and then by any other available contact numbers.

#### 358.4.1 STAFF NOTIFICATION

In the event an incident occurs described in the Major Incident Notification Policy, the Chief of Police shall be notified along with the affected Division Commander and the Detective Lieutenant if that division is affected.



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***Major Incident Notification***

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**358.4.2 DETECTIVE NOTIFICATION**

If the incident requires that a detective respond from home, the immediate supervisor of the appropriate detail shall be contacted who will then contact the appropriate detective.

**358.4.3 COLLISION RECONSTRUCTION UNIT NOTIFICATION**

In the event of a traffic fatality or major injury, the Watch Commander shall be notified who will then contact the collision reconstruction unit investigators.

**358.4.4 PUBLIC INFORMATION OFFICER (PIO)**

A Public Information Officer should be called after members of staff have been notified that it appears the media may have a significant interest in the incident.

## **Death Investigation**

### **360.1 PURPOSE AND SCOPE**

The investigations of cases involving death include the following: natural, accidental (traffic related or other), industrial or occupational, justifiable, suicidal, undetermined, intentional or unintentional homicide (murder, manslaughter to include voluntary or involuntary, vehicular, gross negligence or absence of gross negligence) or any other death related as a result of criminal negligence either obvious or suspected.

### **360.2 INVESTIGATION CONSIDERATIONS**

Death investigation cases require certain actions be taken. Paramedics should be called in all suspected death cases unless the death is obvious (decapitated, decomposed, etc.).

The Patrol Supervisor shall notify the Investigations Supervisor when deemed necessary. The on-duty Patrol Supervisor overseeing the investigation should prepare an Unusual Occurrence Report for any death investigation where suspicious circumstances or foul play is suspected or appears to be involved.

#### **360.2.1 CORONER REQUEST**

Government Code § 27491 and Health & Safety Code § 102850 direct the Coroner to inquire into and determine the circumstances, manner and cause of certain deaths. The Coroner shall be called in any of the following cases:

- (a) Unattended deaths (No physician in attendance or during the continued absence of the attending physician. Also, includes all deaths outside hospitals and nursing care facilities).
- (b) Deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by Health and Safety Code § 1746 in the 20 days prior to death.
- (c) Physician unable to state the cause of death. Unwillingness does not apply. Includes all sudden, unexpected and unusual deaths and fetal deaths when the underlying cause is unknown.
- (d) Known or suspected homicide.
- (e) Known or suspected suicide.
- (f) Involving any criminal action or suspicion of a criminal act. Includes child and dependent adult negligence and abuse.
- (g) Related to or following known or suspected self-induced or criminal abortion.
- (h) Associated with a known or alleged rape or crime against nature.

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- (i) Following an accident or injury (primary or contributory). Deaths known or suspected as resulting (in whole or in part) from or related to accident or injury, either old or recent.
- (j) Drowning, fire, hanging, gunshot, stabbing, cutting, starvation, exposure, alcoholism, drug addiction, strangulation or aspiration.
- (k) Accidental poisoning (food, chemical, drug, therapeutic agents).
- (l) Occupational diseases or occupational hazards.
- (m) Known or suspected contagious disease and constituting a public hazard.
- (n) All deaths in operating rooms and all deaths where a patient has not fully recovered from an anesthetic, whether in surgery, recovery room or elsewhere.
- (o) In prison or while under sentence. Includes all in-custody and police involved deaths.
- (p) All deaths of unidentified persons.
- (q) All deaths of state hospital patients.
- (r) Suspected Sudden Infant Death Syndrome (SIDS) deaths.
- (s) All deaths where the patient is comatose throughout the period of the physician's attendance. Includes patients admitted to hospitals unresponsive and expire without regaining consciousness.

The body should not be disturbed or moved from the position or place of death without permission of the coroner.

#### 360.2.2 SEARCHING DEAD BODIES

The Coroner or Deputy Coroner is generally the only person permitted to search a body known to be dead from any of the circumstances set forth in Government Code § 27491. The only exception is that an officer is permitted to search the body of a person killed in a traffic collision for the limited purpose of locating an anatomical donor card (Government Code § 27491.3). If such a donor card is located, the Coroner or a designee shall be promptly notified. Should exigent circumstances indicate to an officer that any search of a known dead body is warranted prior to the arrival of the Coroner or a designee; the investigating officer shall first obtain verbal consent from the Coroner or a designee (Government Code § 27491.2).

Whenever possible, a witness, preferably a relative to the deceased or a member of the household, should be requested to remain at the scene with the officer pending the arrival of the Coroner or a designee. The name and address of this person shall be included in the narrative of the death report. Whenever personal effects are removed from the body of the deceased by the Coroner or a designee, a receipt shall be obtained. This receipt shall be attached to the death report.

#### 360.2.3 DEATH NOTIFICATION

Death notification is normally handled by the Coroner's Office, but it can be handled by the assigned officer to the incident, officer(s) directed to do so, or Police Chaplains summoned

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for such duties. Concerning the media, any information concerning the identity of a deceased person is usually provided via means through the Coroner's Office. In the event that additional information is sought by the media, the investigating agency should coordinate such information through the Coroner's Office via the assigned Public Information Officer (PIO) or the on-duty watch commander. Depending on the circumstances, release of information to the media should be limited and, if practical, reviewed by either the Division Commander or the Investigation Supervisor prior to such release so as to avoid jeopardizing an investigation.

#### **360.2.4 UNIDENTIFIED DEAD BODIES**

If the identity of a dead body cannot be established after the Coroner arrives, the Coroner's office will issue a "John Doe" or "Jane Doe" number for the report.

#### **360.2.5 DEATH INVESTIGATION REPORTING**

All incidents involving a death shall be documented in a police report. The report should be written as soon as possible and consideration of "Hot Lead" forms should be included. The Investigations Supervisor should be notified directly or, depending on the circumstances, via email and/or a copy of the Unusual Occurrence Report. Photographs and EMS run sheets (if applicable) shall be taken and included with all reports involving death investigations.

#### **360.2.6 SUSPECTED HOMICIDE**

If the initially assigned officer suspects that the death involves a homicide or other suspicious circumstances, the Investigations Division shall be notified to determine the possible need for a detective to respond to the scene for further immediate investigation.

#### **360.2.7 EMPLOYMENT RELATED DEATHS OR INJURIES**

Any member of this agency who responds to and determines that a death, serious illness, or serious injury has occurred as a result of an accident at or in connection with the victim's employment shall ensure that the nearest office of Cal-OSHA is notified by telephone or teletype with all pertinent information (8 CCR 342(b)).

Regarding Cal-OSHA notification, if applicable, fire department personnel can assist in notification of the appropriate representatives. Pertinent information of the representative should be included in the report as well as Cal-OSHA's incident number.

#### **360.2.8 TRANSPORTATION AND CUSTODY REGARDING THE BODY OF THE DECEASED**

If a crime is suspected, suspicious circumstances or foul play involved with any death investigation, the body should be turned over to the custody of the Coroner or Deputy Coroner and marked/tagged as evidence by the investigator. The body bag shall be sealed with evidence tape along the zippered enclosure and properly marked. The investigator should coordinate with the Coroner's Office about the time and place of the autopsy.

The assigned investigator or assisting agent shall be present at the autopsy where photography and reports are prepared in combination with the Forensic Pathologist conducting the autopsy procedure. The custody and transportation of the body shall fall under the direction of the Coroner's

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Office. It is the Coroner or Deputy Coroner's discretion to transport the body through the means of transportation services contracted and approved by the Coroner's Office. In the event that the Coroner's Office is contacted and the decision is made by their agency not to respond to the scene, a mortuary service (funeral home, etc) can provide the collection and transportation services needed.

In the event of death involving children, reports or report summaries should be referred to the Coroner's Office as soon as possible out of necessity for the Pediatric Death Review (PDR) in order to accommodate the select committee designated to review such cases. Consideration should be made with language in the policy outlining situations where death is involved in circumstances of DNRs (Do Not Resuscitate) occurs.

# Identity Theft

## 362.1 PURPOSE AND SCOPE

Identity theft is a growing trend that frequently involves related crimes in multiple jurisdictions. This policy is intended to provide guidelines for the reporting and investigation of such crimes.

## 362.2 REPORTING

- (a) In an effort to maintain uniformity in reporting, officers presented with the crime of identity theft (Penal Code § 530.6) shall initiate a report for victims residing within the jurisdiction of this department when the crime occurred. For incidents of identity theft occurring outside this jurisdiction, officers should observe the following:
  - 1. For any victim not residing within this jurisdiction, the officer may either take a courtesy report to be forwarded to the victim's residence agency or the victim should be encouraged to promptly report the identity theft to the law enforcement agency where he or she resides.
- (b) While the crime of identity theft should be reported to the law enforcement agency where the victim resides, officers of this department should investigate and report crimes occurring within this jurisdiction which have resulted from the original identity theft (e.g., the identity theft occurred elsewhere, but the credit card fraud occurred and is reported in this jurisdiction).
- (c) Officers should include all known incidents of fraudulent activity (e.g., credit card number applied for in victim's name when the victim has never made such an application).
- (d) Officers should also cross-reference all known reports made by the victim (e.g., U.S. Secret Service, credit reporting bureaus, U.S. Postal Service and DMV) with all known report numbers.
- (e) The reporting officer should inform victims of identity theft that the California Identity Theft Registry is available to help those who are wrongly linked to crimes. The registry can be checked by law enforcement and other authorized persons to investigate whether a criminal history or want was created in the victim's name (Penal Code § 530.7). Information regarding the California Identity Theft Registry can be obtained by calling toll free (888) 880-0240.
- (f) Following supervisory review and departmental processing, the initial report should be forwarded to the appropriate detective for follow up investigation, coordination with other agencies and prosecution as circumstances dictate.
- (g) Officers should encourage the victim to request a credit report from a credit reporting agency.

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- (h) The victim should be advised to report the identity theft to the Federal Trade Commission.

## Private Persons Arrests

### 364.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the handling of private person's arrests made pursuant to Penal Code § 837.

### 364.2 ADVISING PRIVATE PERSONS OF THE ARREST PROCESS

Penal Code § 836(b) expressly mandates that all officers shall advise victims of domestic violence of the right to make a private person's arrest, including advice on how to safely execute such an arrest. In all other situations, officers should use sound discretion in determining whether or not to advise an individual of the arrest process.

- (a) When advising any individual regarding the right to make a private person's arrest, officers should refrain from encouraging or dissuading any individual from making such an arrest and should instead limit advice to the legal requirements for such an arrest as listed below.
- (b) Private individuals should be discouraged from using force to effect a private person's arrest, and absent immediate threat to their own safety or the safety of others, private individuals should be encouraged to refer matters to law enforcement officials for further investigation or arrest.

### 364.3 ARRESTS BY PRIVATE PERSONS

Penal Code § 837 provides that a private person may arrest another:

- (a) For a public offense committed or attempted in his or her presence;
- (b) When the person arrested has committed a felony, although not in his or her presence;
- (c) When a felony has been in fact committed, and he or she has reasonable cause for believing the person arrested has committed it.

Unlike peace officers, private persons may not make an arrest on suspicion that a felony has been committed - the felony must in fact have taken place.

### 364.4 OFFICER RESPONSIBILITIES

Any officer presented with a private person wishing to make an arrest must determine whether or not there is reasonable cause to believe that such an arrest would be lawful (Penal Code § 847).

- (a) Should any officer determine that there is no reasonable cause to believe that a private person's arrest is lawful, the officer should take no action to further detain or restrain the individual beyond that which reasonably appears necessary to investigate the matter, determine the lawfulness of the arrest and protect the public safety.



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### Private Persons Arrests

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1. Any officer who determines that a private person's arrest appears to be unlawful should promptly release the arrested individual pursuant to Penal Code § 849(b) (1). The officer must include the basis of such a determination in a related report.
  2. Absent reasonable cause to support a private person's arrest or other lawful grounds to support an independent arrest by the officer, the officer should advise the parties that no arrest will be made and that the circumstances will be documented in a related report.
- (b) Whenever an officer determines that there is reasonable cause to believe that a private person's arrest is lawful, the officer may exercise any of the following options:
1. Take the individual into physical custody for booking
  2. Release the individual pursuant to a Notice to Appear
  3. Release the individual pursuant to Penal Code § 849

#### **364.5 REPORTING REQUIREMENTS**

In all circumstances in which a private person is claiming to have made an arrest, the individual must complete and sign a department Private Person's Arrest form or the area indicated for the arresting citizen on the suspect's citation, under penalty of perjury.

In addition to the Private Person's Arrest Form (and any other related documents such as citations, booking forms, etc.), officers shall complete a narrative report regarding the circumstances and disposition of the incident.

# Anti-Reproductive Rights Crimes Reporting

## 366.1 PURPOSE AND SCOPE

This policy shall establish a procedure for the mandated reporting of Anti-Reproductive Rights Crimes (ARRC) to the Attorney General pursuant to the Reproductive Rights Law Enforcement Act (Penal Code § 13775 et seq.).

## 366.2 DEFINITIONS

Penal Code § 423.2 provides that the following acts shall be considered Anti-Reproductive Rights Crimes (ARRC) when committed by any person, except a parent or guardian acting towards his or her minor child or ward:

- (a) By force, threat of force, or physical obstruction that is a crime of violence, intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider, or assistant
- (b) By non-violent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider or assistant
- (c) Intentionally damages or destroys the property of a person, entity, or facility, or attempts to do so, because the person, entity, or facility is a reproductive health services client, provider, assistant, or facility

## 366.3 REPORTING REQUIREMENTS TO THE ATTORNEY GENERAL

- (a) Upon the receipt of the report of an ARRC, it shall be the responsibility of the employee taking such a report to also complete an ARRC Data Collection Worksheet (BCIA 8371) in accordance with the instructions contained on such forms.
- (b) The ARRC Data Collection Worksheet shall be processed with all related reports and forwarded to the Investigation Division Commander.
- (c) By the tenth day of each month, it shall be the responsibility of the Investigation Division Commander to ensure that a Summary Worksheet (BCIA 8370) is submitted to the Department of Justice Criminal Justice Statistics Center.
  - 1. In the event that no ARRC(s) were reported during the previous month, a Summary Worksheet shall be submitted to Department of Justice with an indication that no such crimes were reported.

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2. Any ARRC(s) reported in the Summary Worksheet shall be accompanied by a copy of the related Data Collection Worksheet(s).

## Limited English Proficiency Services

### 368.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

#### 368.1.1 DEFINITIONS

Definitions related to this policy include:

**Authorized interpreter** - A person who has been screened and authorized by the Department to act as an interpreter and/or translator for others.

**Interpret or interpretation** - The act of listening to a communication in one language (source language) and orally converting it to another language (target language), while retaining the same meaning.

**Limited English proficient (LEP)** - Any individual whose primary language is not English and who has a limited ability to read, write, speak or understand English. These individuals may be competent in certain types of communication (e.g., speaking or understanding) but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific; an individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations.

**Qualified bilingual member** - A member of the Clovis Police Department, designated by the Department, who has the ability to communicate fluently, directly and accurately in both English and another language. Bilingual members may be fluent enough to communicate in a non-English language but may not be sufficiently fluent to interpret or translate from one language into another.

**Translate or translation** - The replacement of written text from one language (source language) into an equivalent written text (target language).

### 368.2 POLICY

It is the policy of the Clovis Police Department to reasonably ensure that LEP individuals have meaningful access to law enforcement services, programs and activities, while not imposing undue burdens on its members.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right.

### 368.3 FOUR-FACTOR ANALYSIS

Since there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, to determine which measures will provide meaningful access to its services and programs. It is recognized that law

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enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:

- (a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of the Department or a particular geographic area.
- (b) The frequency with which LEP individuals are likely to come in contact with department members, programs or services.
- (c) The nature and importance of the contact, program, information or service provided.
- (d) The cost of providing LEP assistance and the resources available.

#### **368.4 TYPES OF LEP ASSISTANCE AVAILABLE**

Clovis Police Department members should never refuse service to an LEP individual who is requesting assistance, nor should they require an LEP individual to furnish an interpreter as a condition for receiving assistance. The Department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services.

The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language.

LEP individuals may choose to accept department-provided LEP services at no cost or they may choose to provide their own.

Department-provided LEP services may include, but are not limited to, the assistance methods described in this policy.

#### **368.5 WRITTEN FORMS AND GUIDELINES**

Vital documents or those that are frequently used should be translated into languages most likely to be encountered. The LEP Coordinator will arrange to make these translated documents available to members and other appropriate individuals, as necessary.

#### **368.6 AUDIO RECORDINGS**

The Department may develop audio recordings of important or frequently requested information in a language most likely to be understood by those LEP individuals who are representative of the community being served.

#### **368.7 QUALIFIED BILINGUAL MEMBERS**

Bilingual members may be qualified to provide LEP services when they have demonstrated through established department procedures a sufficient level of skill and competence to fluently communicate in both English and a non-English language. Members utilized for LEP services must demonstrate knowledge of the functions of an interpreter/translator and the ethical issues involved when acting as a language conduit. Additionally, bilingual members must be able to

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communicate technical and law enforcement terminology, and be sufficiently proficient in the non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.

When a qualified bilingual member from this department is not available, personnel from other City departments, who have been identified by the Department as having the requisite skills and competence, may be requested.

#### **368.8 AUTHORIZED INTERPRETERS**

Any person designated by the Department to act as an authorized interpreter and/or translator must have demonstrated competence in both English and the involved non-English language, must have an understanding of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the department case or investigation involving the LEP individual. A person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation in a court proceeding.

Authorized interpreters must pass a screening process established by the LEP Coordinator which demonstrates that their skills and abilities include:

- (a) The competence and ability to communicate information accurately in both English and in the target language.
- (b) Knowledge, in both languages, of any specialized terms or concepts peculiar to this department and of any particularized vocabulary or phraseology used by the LEP individual.
- (c) The ability to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (d) Knowledge of the ethical issues involved when acting as a language conduit.

##### **368.8.1 SOURCES OF AUTHORIZED INTERPRETERS**

The Department may contract with authorized interpreters who are available over the telephone. Members may use these services with the approval of a supervisor and in compliance with established procedures.

Other sources may include:

- Qualified bilingual members of this department or personnel from other City departments.
- Individuals employed exclusively to perform interpretation services.
- Contracted in-person interpreters, such as state or federal court interpreters, among others.

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- Interpreters from other agencies who have been qualified as interpreters by this department, and with whom the Department has a resource-sharing or other arrangement that they will interpret according to department guidelines.

#### **368.8.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE**

Language assistance may be available from community volunteers who have demonstrated competence in either monolingual (direct) communication and/or in interpretation or translation (as noted in above), and have been approved by the Department to communicate with LEP individuals.

Where qualified bilingual members or other authorized interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the LEP individual and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

While family or friends of an LEP individual may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations.

#### **368.9 CONTACT AND REPORTING**

While all law enforcement contacts, services and individual rights are important, this department will utilize the four-factor analysis to prioritize service to LEP individuals so that such services may be targeted where they are most needed, according to the nature and importance of the particular law enforcement activity involved.

Whenever any member of this department is required to complete a report or other documentation, and interpretation services are provided to any involved LEP individual, such services should be noted in the related report. Members should document the type of interpretation services utilized and whether the individual elected to use services provided by the Department or some other identified source.

#### **368.10 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE**

The Clovis Police Department will take reasonable steps and will work with the Personnel Risk Management to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

##### **368.10.1 EMERGENCY CALLS TO 9-1-1**

Department members will make every reasonable effort to promptly accommodate LEP individuals utilizing 9-1-1 lines. When a 9-1-1 call-taker receives a call and determines that the caller is an LEP individual, the call-taker shall quickly determine whether sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed, the language is

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known and a qualified bilingual member is available in Communications, the call shall immediately be handled by the qualified bilingual member.

If a qualified bilingual member is not available or the call-taker is unable to identify the caller's language, the call-taker will contact the contracted telephone interpretation service and establish a three-way call between the call-taker, the LEP individual and the interpreter.

Dispatchers will make every reasonable effort to dispatch a qualified bilingual member to the assignment, if available and appropriate.

While 9-1-1 calls shall receive top priority, reasonable efforts should also be made to accommodate LEP individuals seeking routine access to services and information by utilizing the resources listed in this policy.

#### **368.11 FIELD ENFORCEMENT**

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Members and/or supervisors must assess each situation to determine the need and availability of language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to request consent to search if the officer is unable to effectively communicate with an LEP individual.

If available, officers should obtain the assistance of a qualified bilingual member or an authorized interpreter before placing an LEP individual under arrest.

#### **368.12 INVESTIGATIVE FIELD INTERVIEWS**

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. This includes interviews conducted during an investigation with victims, witnesses and suspects. In such situations, audio recordings of the interviews should be made when reasonably possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

If an authorized interpreter is needed, officers should consider calling for an authorized interpreter in the following order:

- An authorized department member or allied agency interpreter
- An authorized telephone interpreter
- Any other authorized interpreter



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Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

#### **368.13 CUSTODIAL INTERROGATIONS**

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. Only qualified bilingual members or, if none is available or appropriate, authorized interpreters shall be used during custodial interrogations. *Miranda* warnings shall be provided to suspects in their primary language by the qualified bilingual member or an authorized interpreter.

In order to ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible.

#### **368.14 BOOKINGS**

When gathering information during the booking process, members should remain alert to the impediments that language barriers can create. In the interest of the arrestee's health and welfare, the safety and security of the facility, and to protect individual rights, it is important that accurate medical screening and booking information be obtained. Members should seek the assistance of a qualified bilingual member whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by an LEP individual.

#### **368.15 COMPLAINTS**

The Department shall ensure that LEP individuals who wish to file a complaint regarding members of this department are able to do so. The Department may provide an authorized interpreter or translated forms, as appropriate. Complaints will be referred to the LEP Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Authorized interpreters used for any interview with an LEP individual during an investigation should not be members of this department.

Any notice required to be sent to an LEP individual as a complaining party pursuant to the Personnel Complaints Policy should be translated or otherwise communicated in a language-accessible manner.

#### **368.16 TRAINING**

To ensure that all members who may have contact with LEP individuals are properly trained, the Department will provide periodic training on this policy and related procedures, including how to access department-authorized telephonic and in-person interpreters and other available resources.

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The Training Coordinator shall be responsible for ensuring new members receive LEP training. Those who may have contact with LEP individuals should receive refresher training at least once every two years thereafter. The Training Coordinator shall maintain records of all LEP training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

#### **368.16.1 TRAINING FOR AUTHORIZED INTERPRETERS**

All members on the authorized interpreter list must successfully complete prescribed interpreter training. To complete interpreter training successfully, an interpreter must demonstrate proficiency in and ability to communicate information accurately in both English and in the target language, demonstrate knowledge in both languages of any specialized terms or phraseology, and understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

Members on the authorized interpreter list must receive refresher training annually or they will be removed from the authorized interpreter list. This annual training should include language skills competency (including specialized terminology) and ethical considerations.

The Training Coordinator shall be responsible for coordinating the annual refresher training and will maintain a record of all training the interpreters have received.

## Hearing Impaired/Disabled Communications

### 370.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

#### 370.1.1 DEFINITIONS

Definitions related to this policy include:

**Auxiliary aids** - Tools used to communicate with people who have a disability or impairment. They include, but are not limited to, the use of gestures or visual aids to supplement oral communication; a notepad and pen or pencil to exchange written notes; a computer or typewriter; an assistive listening system or device to amplify sound; a teletypewriter (TTY) or videophones (video relay service or VRS); taped text; qualified readers; or a qualified interpreter.

**Disability or impairment** - A physical or mental impairment that substantially limits a major life activity, including hearing or seeing, regardless of whether the disabled person uses assistive or adaptive devices or auxiliary aids. Individuals who wear ordinary eyeglasses or contact lenses are not considered to have a disability (42 USC § 12102).

**Qualified interpreter** - A person who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified Interpreters include oral interpreters, translators, sign language interpreters and intermediary interpreters.

### 370.2 POLICY

It is the policy of the Clovis Police Department to reasonably ensure that people with disabilities, including victims, witnesses, suspects and arrestees have equal access to law enforcement services, programs and activities. Members must make efforts to communicate effectively with individuals with disabilities.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon disabilities.

### 370.3 FACTORS TO CONSIDER

Because the nature of any law enforcement contact may vary substantially from one situation to the next, members of this department should consider all information reasonably available to them when determining how to communicate with an individual with a disability. Members should carefully balance all known factors in an effort to reasonably ensure people who are disabled have equal access to services, programs and activities. These factors may include, but are not limited to:

- (a) Members should not always assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not always mean he/she completely understands the message. When there is any doubt, members

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should ask the individual to communicate back or otherwise demonstrate their understanding.

- (b) The nature of the disability (e.g., deafness or blindness vs. hard of hearing or low vision).
- (c) The nature of the law enforcement contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact).
- (d) The availability of auxiliary aids. The fact that a particular aid is not available does not eliminate the obligation to reasonably ensure access. However, in an emergency, availability may factor into the type of aid used.

#### **370.4 INITIAL AND IMMEDIATE CONSIDERATIONS**

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems.

Members should exercise special care in the use of all gestures, and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

In a non-emergency situation, when a member knows or suspects an individual requires assistance to effectively communicate, the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

- (a) The methods of communication usually used by the individual.
- (b) The nature, length and complexity of the communication involved.
- (c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services that reasonably appear effective under the circumstances. This may include, for example, exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service. Once the emergency has ended, the continued method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of the Clovis Police Department, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

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#### **370.5 TYPES OF ASSISTANCE AVAILABLE**

Clovis Police Department members shall never refuse to assist an individual with disabilities who is requesting assistance. The Department will not charge anyone to receive auxiliary aids, nor shall they require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The Department will make every reasonable effort to provide equal access and timely assistance to individuals who are disabled through a variety of services.

A person who is disabled may choose to accept department-provided auxiliary aids or services or they may choose to provide their own.

Department-provided auxiliary aids or services may include, but are not limited to, the assistance methods described in this policy.

#### **370.6 AUDIO RECORDINGS AND ENLARGED PRINT**

The Department may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, members may read aloud from the appropriate form, for example a personnel complaint form, or provide forms with enlarged print.

#### **370.7 QUALIFIED INTERPRETERS**

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee), if the individual to be interviewed normally relies on sign language or speechreading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or investigation involving the disabled individual. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

- (a) Available within a reasonable amount of time but in no event longer than one hour if requested.
- (b) Experienced in providing interpretation services related to law enforcement matters.
- (c) Familiar with the use of VRS and/or video remote interpreting services.
- (d) Certified in either American Sign Language (ASL) or Signed English (SE).
- (e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use department-approved procedures to request a qualified interpreter at the earliest reasonable opportunity, and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

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### **370.8 TTY AND RELAY SERVICES**

In situations where an individual without a disability would have access to a telephone (e.g., booking or attorney contacts), members must also provide those who are deaf, hard of hearing or have impaired speech the opportunity to place calls using an available TTY (also known as a telecommunications device for deaf people, or TDD). Members shall provide additional time, as needed, for effective communication due to the slower nature of TTY and TDD communications.

The Department will accept all TTY or TDD calls placed by those who are deaf or hard of hearing and received via a telecommunications relay service (28 CFR 35.162).

Note that relay services translate verbatim, so the conversation must be conducted as if speaking directly to the caller.

### **370.9 COMMUNITY VOLUNTEERS**

Interpreter services may be available from community volunteers who have demonstrated competence in communication services, such as ASL or SE, and have been approved by the Department to provide interpreter services.

Where qualified interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the individual with the disability and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

### **370.10 FAMILY AND FRIENDS**

While family or friends may offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. The nature of the contact and relationship between the individual with the disability and the person offering services must be carefully considered (e.g., victim/suspect).

Children shall not be relied upon except in emergency or critical situations when there is no qualified interpreter reasonably available.

Adults may be relied upon when (28 CFR 35.160):

- (a) There is an emergency or critical situation and there is no qualified interpreter reasonably available.
- (b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

### **370.11 REPORTING**

Whenever any member of this department is required to complete a report or other documentation, and communication assistance has been provided, such services should be noted in the related

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report. Members should document the type of communication services utilized and whether the individual elected to use services provided by the Department or some other identified source. If the individual's express preference is not honored, the member must document why another method of communication was used.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

#### **370.12 FIELD ENFORCEMENT**

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

The Department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every member of this department. Members and/or supervisors must assess each situation and consider the length, complexity and importance of the communication, as well as the individual's preferred method of communication, when determining the type of resources to use and whether a qualified interpreter is needed.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to verbally request consent to search if the officer is unable to effectively communicate with an individual who is deaf or hard of hearing and requires communications assistance.

If available, officers should obtain the assistance of a qualified interpreter before placing an individual with a disability under arrest. Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.

##### **370.12.1 FIELD RESOURCES**

Examples of methods that may be sufficient for transactions, such as checking a license or giving directions to a location or for urgent situations such as responding to a violent crime in progress, may, depending on the circumstances, include such simple things as:

- (a) Hand gestures or visual aids with an individual who is deaf, hard of hearing or has impaired speech.
- (b) Exchange of written notes or communications.
- (c) Verbal communication with an individual who can speechread by facing the individual and speaking slowly and clearly.
- (d) Use of computer, word processing, personal communication device or similar device to exchange texts or notes.

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- (e) Slowly and clearly speaking or reading simple terms to individuals who have a visual or mental impairment.

Members should be aware that these techniques may not provide effective communication as required by law and this policy depending on the circumstances.

### **370.13 CUSTODIAL INTERROGATIONS**

In an effort to ensure that the rights of individuals who are deaf, hard of hearing or have speech impairment are protected during a custodial interrogation, this department will provide interpreter services before beginning an interrogation, unless exigent circumstances exist or the individual has made a clear indication that he/she understands the process and desires to proceed without an interpreter. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

In order to ensure that communications during custodial investigations are accurately documented and are admissible as evidence, Interrogations should be recorded whenever reasonably possible.

### **370.14 ARREST AND BOOKINGS**

If an individual with speech or hearing disabilities is arrested, the arresting officer shall use department-approved procedures to provide a qualified interpreter at the place of arrest or booking as soon as reasonably practicable, unless the individual indicates that he/she prefers a different auxiliary aid or service or the officer reasonably determines another effective method of communication exists under the circumstances.

When gathering information during the booking process, members should remain alert to the impediments that often exist when communicating with those who are deaf, hard of hearing, who have impaired speech or vision, are blind, or have other disabilities. In the interest of the arrestee's health and welfare, the safety and security of the facility and to protect individual rights, it is important that accurate medical screening and booking information be obtained. If necessary, members should seek the assistance of a qualified interpreter whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by the individual.

Individuals who require and possess personally owned communication aids (e.g., hearing aids, cochlear processors) should be permitted to retain them while in custody.

### **370.15 COMPLAINTS**

The Department shall ensure that individuals with disabilities who wish to file a complaint regarding members of this department are able to do so. The Department may provide a qualified interpreter or forms in enlarged print, as appropriate. Complaints will be referred to the department ADA Coordinator.



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Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Qualified interpreters used during the investigation of a complaint should not be members of this Department.

#### **370.16 TRAINING**

To ensure that all members who may have contact with individuals who are disabled are properly trained, the Department will provide periodic training that should include:

- (a) Awareness and understanding of this policy and related procedures, related forms and available resources.
- (b) Procedures for accessing qualified interpreters and other available resources.
- (c) Working with in-person and telephone interpreters and related equipment.

The Training Coordinator shall be responsible for ensuring new members receive training related to interacting with individuals who have disabilities, including individuals who are deaf, hard of hearing, who have impaired speech or vision, or are blind. Those who may have contact with such individuals should receive refresher training at least once every two years thereafter. The Training Coordinator shall maintain records of all training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

##### **370.16.1 CALL-TAKER TRAINING**

Emergency call-takers shall be trained in the use of TTY equipment protocols for communicating with individuals who are deaf, hard of hearing or who have speech impairments. Such training and information should include:

- (a) The requirements of the ADA and Section 504 of the Rehabilitation Act for telephone emergency service providers.
- (b) ASL syntax and accepted abbreviations.
- (c) Practical instruction on identifying and processing TTY or TDD calls, including the importance of recognizing silent TTY or TDD calls, using proper syntax, abbreviations and protocol when responding to TTY or TDD calls.
- (d) Hands-on experience in TTY and TDD communications, including identification of TTY or TDD tones.

Training should be mandatory for all Communications members who may have contact with individuals from the public who are deaf, hard of hearing or have impaired speech. Refresher training should occur every six months.

## **Mandatory Employer Notification**

### **372.1 PURPOSE AND SCOPE**

The purpose of this policy is to describe the requirements and procedures to follow when a public or private school employee (teacher and non-teacher) has been arrested under certain circumstances.

### **372.2 MANDATORY SCHOOL EMPLOYEE ARREST REPORTING**

In the event a school employee is arrested for any offense enumerated below, the Chief of Police or his/her designee is required to report the arrest as follows.

#### **372.2.1 ARREST OF PUBLIC SCHOOL TEACHER**

In the event a public school teacher is arrested for any controlled substance offense enumerated in Health and Safety Code § 11590 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290, Penal Code § 261(a) or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the superintendent of the school district employing the teacher and to immediately give written notice of the arrest to the Commission on Teacher Credentialing and to the superintendent of schools in the county where the person is employed (Health and Safety Code § 11591; Penal Code § 291).

#### **372.2.2 ARREST OF PUBLIC SCHOOL NON-TEACHER EMPLOYEE**

In the event a public school non-teacher employee is arrested for any controlled substance offense enumerated in Health and Safety Code § 11590 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290, Penal Code § 261(a) or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the superintendent of the school district employing the non-teacher and to immediately give written notice of the arrest to the governing board of the school district employing the person (Health and Safety Code § 11591; Penal Code § 291).

#### **372.2.3 ARREST OF PRIVATE SCHOOL TEACHER**

In the event a private school teacher is arrested for any controlled substance offense enumerated in Health and Safety Code § 11590 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290 or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the private school authority employing the teacher and to immediately give written notice of the arrest to the private school authority employing the teacher (Health and Safety Code § 11591; Penal Code § 291.1).

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### Mandatory Employer Notification

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#### **372.2.4 ARREST OF COMMUNITY COLLEGE INSTRUCTOR**

In the event a teacher or instructor employed in a community college district school is arrested for any controlled substance offense enumerated in Health and Safety Code § 11590 or Health and Safety § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(9), or for any of the offenses enumerated in Penal Code § 290 or in Penal Code § 261(a)(1), the Chief of Police or the authorized designee is mandated to immediately notify by telephone the superintendent of the community college district employing the person, and shall immediately give written notice of the arrest to the California Community Colleges Chancellor's Office (Health and Safety Code § 11591.5; Penal Code § 291.5).

#### **372.3 ARREST OF PERSONS EMPLOYED IN COMMUNITY CARE FACILITIES**

In the event an employee of a community treatment facility, a day treatment facility, a group home, a short-term residential therapeutic program or a foster family agency is arrested for child abuse (as defined in Penal Code § 11165.6) and the employee is free to return to work where children are present, the investigating member shall notify the licensee of the charge of abuse (Health and Safety Code § 1522.2).

## Biological Samples

### 374.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of biological samples from those individuals required to provide samples upon conviction or arrest for certain offenses. This policy does not apply to biological samples collected at a crime scene or taken from a person in conjunction with a criminal investigation. Nor does it apply to biological samples from those required to register, for example, sex offenders.

### 374.2 POLICY

The Clovis Police Department will assist in the expeditious collection of required biological samples from offenders in accordance with the laws of this state and with as little reliance on force as practicable.

#### 374.2.1 CONVICTED OFFENDERS

Any person, including juvenile, who is convicted of or pleads guilty or no contest to any felony offense, or is found not guilty by reason of insanity of any felony offense, or juveniles who are adjudicated under WIC § 602 for committing any felony offense are subject to DNA sample collection as long as they remain under government control (e.g. in custody, on probation, parole, or other release). Penal Code § 296 (a)(1).

Most convicted offenders will likely have provided a sample at time of arrest or conviction. However, in the course of probation or parole contacts, DNA samples may be collected.

#### 374.2.2 LEGALLY OBTAINED SAMPLES

DNA samples can be legally obtained from suspects in criminal investigations by consent or by a warrant. Such samples may be profiled and searched. These DNA profiles are kept for two years. In the event a subject is no longer a suspect in the investigation, written notice must be submitted to the DNA laboratory so that the sample may be purged from the laboratory's files and data bases. Penal Code § 297 (c).

### 374.3 PERSONS SUBJECT TO DNA COLLECTION

Those who must submit a biological sample include (Penal Code § 296):

- (a) A person, including a juvenile, upon conviction or other adjudication of any felony offense.
- (b) A person, including a juvenile, upon conviction or other adjudication of any offense if the person has a prior felony on record.
- (c) An adult arrested or charged with any felony.

## ***Biological Samples***

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### **374.4 PROCEDURE**

When an individual is required to provide a biological sample, a trained employee shall obtain the sample in accordance with this policy.

#### **374.4.1 COLLECTION**

The following steps should be taken to collect a sample:

- (a) Verify that the individual is required to provide a sample pursuant to Penal Code § 296; Penal Code § 296.1.
- (b) Verify that a biological sample has not been previously collected from the offender by querying the individual's criminal history record for a DNA collection flag or, during regular business hours, calling the California Department of Justice (DOJ) designated DNA laboratory. There is no need to obtain a biological sample if one has been previously obtained.
- (c) Use a DNA buccal swab collection kit provided by the California DOJ to perform the collection and take steps to avoid cross contamination.

### **374.5 USE OF FORCE TO OBTAIN SAMPLES**

If a person refuses to cooperate with the sample collection process, officers should attempt to identify the reason for refusal and seek voluntary compliance without resorting to using force. Force will not be used in the collection of samples except as authorized by court order and only with the approval of a supervisor. Methods to consider when seeking voluntary compliance include contacting:

- (a) The person's parole or probation officer when applicable.
- (b) The prosecuting attorney to seek additional charges against the person for failure to comply or to otherwise bring the refusal before a judge.
- (c) The judge at the person's next court appearance.
- (d) The person's attorney.
- (e) A chaplain.
- (f) Another custody facility with additional resources, where an arrestee can be transferred to better facilitate sample collection.
- (g) A supervisor who may be able to authorize custodial disciplinary actions to compel compliance, if any are available.

The supervisor shall review and approve any plan to use force and be present to document the process.

#### **374.5.1 VIDEO RECORDING**

A video recording should be made anytime force is used to obtain a biological sample. The recording should document all staff participating in the process, in addition to the methods and

## ***Biological Samples***

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all force used during the collection. The recording should be part of the investigation file, if any, or otherwise retained in accordance with the department's records retention schedule (15 CCR 1059).

### **374.5.2 CELL EXTRACTIONS**

If the use of force includes a cell extraction, the extraction shall be video recorded, including audio. Video shall be directed at the cell extraction event. The video recording shall be retained by the Department for the length of time required by statute. Notwithstanding the use of the video as evidence in a criminal proceeding, the tape shall be retained administratively (15 CCR 1059).

### **374.6 LEGAL MANDATES AND RELEVANT LAWS**

California law provides for the following:

#### **374.6.1 DOCUMENTATION RELATED TO FORCE**

The Watch Commander shall prepare prior written authorization for the use of any force (15 CCR 1059). The written authorization shall include information that the subject was asked to provide the requisite specimen, sample or impression and refused, as well as the related court order authorizing the force.

#### **374.6.2 BLOOD SAMPLES**

A blood sample should only be obtained under this policy when:

- (a) The California DOJ requests a blood sample and the subject consents, or
- (b) A court orders a blood sample following a refusal.

The withdrawal of blood may only be performed in a medically approved manner by health care providers trained and qualified to draw blood. A California DOJ collection kit shall be used for this purpose (Penal Code § 298(a); Penal Code § 298(b)(2)).

#### **374.6.3 LITIGATION**

The Chief of Police or authorized designee should notify the California DOJ's DNA Legal Unit in the event this department is named in a lawsuit involving the DNA Data Bank sample collection, sample use or any aspect of the state's DNA Data Bank Program.

## **Chaplains**

### **376.1 PURPOSE AND SCOPE**

The Clovis Police Department Chaplain Program is established for the purposes of providing spiritual and emotional support to all members of the Department, their families and members of the public.

### **376.2 POLICY**

It is the policy of this department that the Chaplain Program shall be a non-denominational, ecumenical ministry provided by volunteer clergy and/or commissioned lay person without financial compensation.

### **376.3 GOALS**

Members of the Chaplain Program shall fulfill the program's purpose in the following manner:

- (a) By serving as a resource for department personnel when dealing with the public in such incidents as accidental deaths, suicides, suicidal subjects, serious accidents, drug and alcohol abuse, and other such situations that may arise.
- (b) By providing an additional link between the community, other chaplain programs and the Department.
- (c) By providing counseling, spiritual guidance and insight for department personnel and their families.
- (d) By being alert to the spiritual and emotional needs of department personnel and their families.
- (e) By familiarizing themselves with the role of law enforcement in the community.

### **376.4 REQUIREMENTS**

Candidates for the Chaplain Program shall meet the following requirements:

- (a) Must be above reproach, temperate, prudent, respectable, hospitable, able to teach, not be addicted to alcohol or other drugs, not contentious, and free from excessive debt. Must manage their household, family, and personal affairs well. Must have a good reputation with those outside the church.
- (b) Must be ecclesiastically certified and/or endorsed, ordained, licensed, or commissioned by a recognized religious body.
- (c) Must successfully complete an appropriate level background investigation.
- (d) Must have at least three years of successful ministry experience within a recognized church or religious denomination.
- (e) Complete department approved basic Chaplain training within six months of start date.

## ***Chaplains***

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- (f) Possess a valid California Drivers License.

### **376.5 SELECTION PROCESS**

Chaplain candidates are encouraged to participate in the ride-along program before and during the selection process. Chaplain candidates shall successfully complete the following process prior to deployment as a chaplain:

- (a) Appropriate written application.
- (b) Recommendation from their church elders, board, or council.
- (c) Interview with Chief of Police, or his/her designee & Chaplain Coordinator
- (d) Successfully complete an appropriate level background investigation.
- (e) Complete a six month probationary period.

### **376.6 DUTIES AND RESPONSIBILITIES**

The duties of a chaplain include, but are not limited to, the following:

- (a) Assisting in making notification to families of department members who have been seriously injured or killed.
- (b) After notification, responding to the hospital or home of the department member.
- (c) Visiting sick or injured law enforcement personnel in the hospital or at home.
- (d) Attending and participating, when requested, in funerals of active or retired members of the Department.
- (e) Assisting sworn personnel in the diffusion of a conflict or incident, when requested.
- (f) Responding to natural and accidental deaths, suicides and attempted suicides, family disturbances and any other incident that in the judgment of the Watch Commander or supervisor aids in accomplishing the Department's mission.
- (g) Being on-call and if possible, on-duty during major demonstrations or any public function that requires the presence of a large number of department personnel.
- (h) Counseling officers and other personnel with personal problems, when requested.
- (i) Attending department and academy graduations, ceremonies and social events and offering invocations and benedictions, as requested.
- (j) Being responsible for the organization and development of spiritual organizations in the Department.
- (k) Responding to all major disasters such as earthquakes, bombings and similar critical incidents.
- (l) Providing liaison with various religious leaders of the community.



## ***Chaplains***

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- (m) Assisting public safety personnel and the community in any other function of the clergy profession, as requested.
- (n) Participating in in-service training classes.
- (o) Willing to train to enhance effectiveness.
- (p) Promptly facilitating requests for representatives or ministers of various denominations.
- (q) Making referrals in cases where specialized attention is needed or in cases that are beyond the chaplain's ability to assist.

Chaplains may not proselytize or attempt to recruit members of the department or the public into a religious affiliation while on-duty unless the receiving person has solicited spiritual guidance or teaching. If there is any question as to the receiving person's intent, chaplains should verify that the person is desirous of spiritual counseling or guidance before engaging in such discussion.

Chaplains may not accept gratuities for any service or follow-up contacts that was provided while functioning as a chaplain for the Clovis Police Department.

### **376.7 CLERGY-PENITENT CONFIDENTIALITY**

Department chaplains shall be familiar with state evidentiary laws and rules pertaining to the limits of the clergy-penitent privilege and shall inform department members when it appears reasonably likely that the member is discussing matters that are not subject to the clergy-penitent privilege. In such cases, the chaplain should consider referring the member to a non-department counseling resource.

No chaplain shall provide counsel to or receive confidential communications from any Clovis Police Department employees concerning an incident personally witnessed by the chaplain or concerning an incident involving the chaplain.

### **376.8 COMMAND STRUCTURE**

- (a) Under the general direction of the Chief of Police or his/her designee, chaplains shall report to the Chaplain Coordinator and/or Watch Commander.
- (b) The Chief of Police and his/her designee shall make all appointments to the Chaplain Program and will designate a Chaplain Coordinator and/or Chaplain Commander.
- (c) The Chaplain Coordinator shall serve as the liaison between the Chaplain Unit and the Chief of Police or his/her designee. He/she will arrange for regular monthly meetings, act as chairman of all chaplain meetings, prepare monthly schedules, maintain records on all activities of the Chaplain Unit, coordinate activities that may concern the members of the Chaplain Unit and arrange for training classes for chaplains.

## *Chaplains*

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### **376.9 OPERATIONAL GUIDELINES**

- (a) Chaplains will be on-call each month as per the calendar schedule.
- (b) At the end of each watch the chaplain will complete a Chaplain Activity Report and submit it to the Chief of Police or his/her designee.
- (c) Chaplains shall be permitted to ride with officers during any shift and observe Clovis Police Department operations, provided the Watch Commander has been notified and approved of the activity.
- (d) Chaplains shall not be evaluators of employees and shall not be required to report on an employee's performance or conduct.
- (e) In responding to incidents, a chaplain shall never function as an officer.
- (f) When responding to in-progress calls for service, chaplains may be required to stand-by in a secure area until the situation has been deemed safe.
- (g) Chaplains shall serve only within the jurisdiction of the Clovis Police Department unless otherwise authorized by the Chief of Police or his/her designee.
- (h) Each chaplain shall have access to current personnel rosters, addresses, telephone numbers, duty assignments and other information that may assist in their duties. Such information will be considered confidential and each chaplain will exercise appropriate security measures to prevent distribution of the information.

#### **376.9.1 UNIFORMS AND BADGES**

A distinct uniform, identification card and necessary safety equipment will be provided for the Chaplains. This uniform may be similar to that worn by some personnel of this department.

#### **376.10 TRAINING**

The Department will establish a minimum number of training hours and standards for department chaplains. The training may include stress management, death notifications, post-traumatic stress syndrome, burnout for officers and chaplains, legal liability and confidentiality, ethics, responding to crisis situations, the law enforcement family, substance abuse, suicide, officer injury or death, and sensitivity and diversity, as approved by the Training Coordinator.

## Peer Support Program

### **377.1 PURPOSE AND SCOPE**

To provide an accessible support network for employees and their families who express a need for assistance. The program shall promote trust, appropriate anonymity, and confidentiality for employees participating in the program.

This program shall help an employee deal with personal and professional conflicts, and develop an awareness of available alternatives for self and professional help.

#### **377.1.1 PARTICIPATION IN THE PROGRAM**

The program shall be open to all employees, in all divisions and assignments, who express a desire to be a peer supporter.

#### **377.1.2 TRAINING**

Personnel acting in the role of peer support should receive training in the following areas:

- (a) Crisis Intervention
- (b) Crisis Intervention and Counseling
- (c) Listening Skills
- (d) Assessment Skills
- (e) Suicide Assessment
- (f) Alcohol and Substance Abuse

#### **377.1.3 ROLE OF SUPERVISOR**

When officers are involved in critical or traumatic incidents likely to promote personal stress, it will be the on-duty supervisor's responsibility to contact peer support personnel to meet with the officer involved.

It is the goal of the department to provide emotional support to an officer involved in any situation likely to promote personal stress. Supervisors' support of the program is vital to its success.

## Child and Dependent Adult Safety

### 380.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this department (Penal Code § 833.2(a)).

This policy does not address the actions to be taken during the course of a child abuse or dependent adult investigation. These are covered in the Child Abuse and Adult Abuse policies.

### 380.2 POLICY

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The Clovis Police Department will endeavor to create a strong, cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected, including call-out availability and follow-up responsibilities.

### 380.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, officers should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken (Penal Code § 13517.7(b)(1)):

- (a) Inquire about and confirm the location of any children or dependent adults.
- (b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.
- (c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should take reasonable steps to accomplish the arrest of a parent, guardian or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be non-productive, the officer at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

***Child and Dependent Adult Safety***

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**380.3.1 AFTER AN ARREST**

Whenever an arrest is made, the officer should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered children or dependent adults.

Officers should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

- (a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.
  - 1. Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.
  - 2. Except when a court order exists limiting contact, the officer should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.
- (b) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.
- (c) Notify Child Protective Services or the Division of Aging and Adult Services, if appropriate.
- (d) Notify the field supervisor or Watch Commander of the disposition of children or dependent adults.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting officer should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

**380.3.2 DURING THE BOOKING PROCESS**

During the booking process the arrestee shall be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law (Penal Code § 851.5(c)).

If an arrestee is unable to resolve the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

*Child and Dependent Adult Safety*

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**380.4 DEPENDENT WELFARE SERVICES**

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling officer should contact the appropriate welfare service or other department-approved social service to determine whether protective custody is appropriate (Welfare and Institutions Code § 305).

Only when other reasonable options are exhausted should a child or dependent adult be transported to the police facility, transported in a marked patrol car or taken into formal protective custody.

Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

**380.5 TRAINING**

The Training Coordinator is responsible to ensure that all personnel of this department who may be involved in arrests affecting children or dependent adults receive approved POST-approved training on effective safety measures when a parent, guardian or caregiver is arrested (Penal Code § 13517.7).

## **Department Use of Social Media**

### **388.1 PURPOSE AND SCOPE**

The Clovis Police Department endorses the secure use of social media to enhance communication, collaboration and information exchange between the department and the community. This policy establishes this department's position on the utility and management of social media and provides guidance on its management, administration and oversight.

This policy provides guidelines to ensure that any use of social media on behalf of the Department is consistent with the department mission. This policy does not address all aspects of social media use and shall not be limited to any single type of social media channel, as technologies change on a frequent basis.

Specifically, this policy does not address:

- (a) Personal use of social media by department members (see the Employee Speech, Expression and Social Networking Policy).
- (b) Use of social media in personnel processes (see the Recruitment and Selection Policy). Use of social media as part of a criminal investigation, other than disseminating information to the public on behalf of this department.

#### **388.1.1 DEFINITIONS**

The following terms may be used in this policy:

- **Content:** Any copy (text), audio or sound files, video files and live streams, photographs or images, graphics and documents
- **Page:** The specific portion of a social media website where content is displayed, and managed by an individual or individuals with administrator rights
- **Post:** Content an individual shares on a social media site or the act of publishing content on a site.
- **Profile:** Information that a user provides about himself, herself, or an organization, on a social networking site
- **Social Media:** A category of Internet-based resources that integrate user-generated content and user participation. This includes, but is not limited to, social networking sites (Facebook, MySpace), microblogging sites (Twitter, Nixle), photo- and video sharing sites (Flickr, YouTube), wikis(Wikipedia), blogs, and news sites (Digg, Reddit)
- **Social Media Channel or Platform:** A social media website or network. Facebook would be considered a social media channel or platform
- **Social Media Manager:** A member of the social media team who manages social media channels

# Clovis Police Department

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### *Department Use of Social Media*

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#### **388.2 SOCIAL MEDIA TEAM**

The social media program shall be under the direct control of the Chief Of Police, or his designee. Social media team members shall be selected by the Chief of Police or his authorized designee, and are authorized to utilize social media on behalf of the department.

Social Media Team members should use only department-approved equipment during the normal course of duties to post and monitor department-related social media, unless they are specifically authorized to do otherwise by their supervisors.

Requests to post information over department social media channels by non-team members who are not authorized to post should be made through the member's chain of command.

##### **388.2.1 DUTIES**

Members of the team are responsible for:

- Research, testing and evaluation of current and new technologies related to social media
- Design, develop and implement all social media related content
- Assist department administrators in the creation, modification and updating of the department's social media policy
- Act as a liaison between the department and business owners, residents, community leaders, and educational institutions for community relations type issues
- Publish crime prevention tips, departmental news, press-releases, photographs, videos and other related messages
- Assist in criminal investigations pertaining to social media when requested
- Consult and train department members on the safe use of social media in law enforcement

##### **388.2.2 CONDUCT AND RESPONSIBILITIES**

In addition to the specifications outlined in the policy section "Employee Speech, Expression and Social Networking Policy," team members should understand their online and offline conduct is under even greater scrutiny.

All team members shall be aware that their conduct and speech, whether online or offline, in-person, over the phone or through word of mouth, could affect the mission of the department in the social media arena, and it's overall mission. The department does not discourage a team member from engaging in private social media activities and conversations, however, members are reminded to use their expertise, sound judgment, common sense and professionalism when engaging in private social media.

It is anticipated that every team member's online "friends" will know they are a member of the Clovis Police Department. Therefore, any and all online activity will likely shall be under scrutiny by all those who view it, regardless of the level of friendship held for one another. Members shall use the following points as a guideline for their conduct online:



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- **Adherence to the Law Enforcement Code Of Conduct** - Prior to publishing, determine whether something is appropriate or not. If it does not fit into the chain of command, then it won't fit into a team member's personal social media channels, or the departments
- **Representation** - Members of the team shall conduct themselves at all times as representatives of the department and, accordingly, shall adhere to all department guidelines and policies and observe conventionally accepted protocols and proper decorum.
- **Responsibility** - Team members are responsible for anything they post which could tarnish the department, city, their own, or a co-worker's image
- **Scouting** - The department's image is important, both online and offline. If a member of the team becomes aware of a media item shedding a negative or positive light on the department, they should make sure it is known by the entire team. In the event it is a negative comment, steps shall be taken to address the item, if required
- **Debates** - For negative, condescending, or agitated posts, the department shall use techniques which insure we maintain a professional image, all the while addressing the problem individual. Our public supporters will usually defend the department and quell any issues for us, even without asking.
- **Mixing Of Department And Personal Lives** - There is a high potential that people whom team members have developed friendships with may also be "friends" to the department's social media channels as well. When publishing information on private social media channels, team members need to keep this in mind, so as to not bring a negative light on the department. Additionally, any thought, idea, or statement which is counter to the department, city or profession, may have a negative impact upon the team and its objectives

#### **388.2.3 TRAINING**

Authorized members should receive training that, at a minimum, addresses legal issues concerning the appropriate use of social media sites, as well as privacy, civil rights, dissemination and retention of information posted on department sites.

When staffing and budgeting permits, team members may be assigned or requested to attend training as social media technologies, channels, procedures and cultures are constantly changing. These changes affect how other key entities tied to social media also operate. Potential training which can be beneficial to members of the SMT are:

- Social media specific conferences or classes
- Internet related crime investigation courses

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### *Department Use of Social Media*

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- Public Information Officer classes or updates
- Print, radio, television and internet media training
- Internet branding and advertising classes or training
- Internet content writing, photography and videography classes

#### **388.2.4 COMPENSATION**

Assignment to the team shall be as a collateral duty. In the event a social media project requires a dedicated amount of time outside normal production time estimates, team members may request compensation thru a team supervisor. Compensation shall be made at the discretion of the Chief of Police or his designee.

Social media channels, as with anything on the world wide web, are available and in operation 24 hours a day, everyday. Obviously, spontaneous publishing of comments, questions, concerns or complaints can be posted on the department's social media channels at any time, by the public. Since there is no set schedule of team members, the aforementioned posts will be addressed by the team as soon as is reasonable and practical to do so. Information posted which constitutes an emergency, shall be brought to the attention of a team supervisor, for direction on how to proceed with the emergency.

Members of the SMT are not required to manage the department's social media channels on their scheduled off-duty time.

#### **388.2.5 RESPONSE TO EOC ACTIVATIONS**

The team can be viewed upon as the city's media service during emergencies, as statistics show more people use their smartphones and social media during a major emergency, than using a radio, television or newspaper.

In the event of a major emergency, the team may be called upon to respond to the Emergency Operation Center or Command Post and receive further instructions and assignments.

#### **388.2.6 CRIMINAL INVESTIGATIONS**

Refer to the appropriate section of this manual regarding online criminal investigations.

#### **388.3 CONTENT GUIDELINES**

The Chief of Police may develop specific guidelines identifying the type of content that may be posted. Any content that does not strictly conform to the following guidelines should be approved by a supervisor prior to posting.

Absent any specific guidelines set forth by the Chief of Police, the following is approved content:

Investigative:

- Missing persons

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## *Department Use of Social Media*

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- Wanted persons
- Crimes perpetrated online (i.e., cyberbullying, cyberstalking)
- Photos or videos of a crime posted by a participant or observer
- Requests for information from the public

### Community Outreach

- Providing crime prevention tips and information
- Sharing crime maps and data
- Department news and announcements
- Requests for community engagement or assistance relevant to the department mission
- Employment recruiting
- News releases

### Time-Sensitive Notifications

- Traffic information and road closures
- Special events
- Weather emergencies
- Missing or endangered persons
- Major incidents
- Real-time safety information related to in-progress crimes, geographical warnings or disaster information

The SMT shall not create their own news releases based off of information they receive, either in writing or verbally, unless it was received thru official procedures. All news releases released by the team shall be done so after receiving a written news release from an authorized supervisor or public information officer.

All written comments, articles, posts, videos, photos, or virtual actions (ie; "like," "poke," "unfriend," etc.) may be done by members of the team, providing the item or activity does not tarnish the city, department or profession's image, the item will not pose a safety threat to those mentioned or depicted, and the item serves a legitimate purpose.

## *Department Use of Social Media*

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If there is ever any question as to whether an item meets the standards specified above, the team member shall immediately stop and seek the counsel of a team supervisor.

The team shall not make any official comments or statements regarding the guilt or innocence of any suspect or arrestee, or pending prosecutions, unless such statements are being directly requested by the department's administration. Members of the team shall not distribute any confidential information, reports, photos, or videos of an active investigation, unless authorized by the Chief of Police or his designee.

All copyright, trademark, and service mark restrictions in posting materials to all social media channels and print materials shall be observed. Only content that is appropriate for public release, and that supports the department mission and conforms to all department policies regarding the release of information, may be posted.

### **388.4 PROHIBITED CONTENT**

Content that is prohibited from being posting includes, but is not limited to:

- Content that is abusive, discriminatory, inflammatory or sexually explicit
- Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal or local laws
- Any information that could compromise an ongoing investigation
- Any information that could tend to compromise or damage the mission, function, reputation or professionalism of the Clovis Police Department or its members
- Any information that could compromise the safety and security of department operations, members of the Department, victims, suspects or the public
- Any content posted for personal use
- Any content that has not been properly authorized by this policy or a supervisor

Any member who becomes aware of content on this department's social media site that he/she believes is unauthorized or inappropriate should promptly report such content to a supervisor. The supervisor will ensure its removal from public view and investigate the cause of the entry.

#### **388.4.1 INCIDENT-SPECIFIC USE**

In instances of active incidents where speed, accuracy and frequent updates are paramount (e.g., crime alerts, public safety information, traffic issues), the Public Information Officer or the authorized designee will be responsible for the compilation of information to be released, subject to the approval of the Incident Commander.

## *Department Use of Social Media*

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### **388.5 PROHIBITED CONTENT**

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- Content that is abusive, discriminatory, inflammatory or sexually explicit
- Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal or local laws
- Any information that could compromise an ongoing investigation
- Any information that could tend to compromise or damage the mission, function, reputation or professionalism of the Clovis Police Department or its members
- Any information that could compromise the safety and security of department operations, members of the Department, victims, suspects or the public
- Any content posted for personal use
- Any content that has not been properly authorized by this policy or a supervisor

Any member who becomes aware of content on this department's social media site that he/she believes is unauthorized or inappropriate should promptly report such content to a supervisor. The supervisor will ensure its removal from public view and investigate the cause of the entry.

#### **388.5.1 PUBLIC POSTING PROHIBITED**

Department social media sites shall be designed and maintained to limit the posting of certain content by the public. Since social media infers that there is two-way dialogue among parties, engagement with the community is encouraged.

The community may post comments on department generated comments, however, the public will not be able to post videos or still images on department social media platforms.

The Department may provide a method for members of the public to contact department members directly.

### **388.6 MONITORING CONTENT**

The Chief of Police will appoint a supervisor to review, at least annually, the use of department social media and report back on, at a minimum, the resources being used, the effectiveness of the content, any unauthorized or inappropriate content and the resolution of any issues.

#### **388.6.1 DELETION OR HIDING OF CONTENT**

When content has been posted by a member of the public which violates the department's terms of use for social media, it shall be hidden from the public, if it has not already been hidden by way of an automated moderation or censoring feature.

## *Department Use of Social Media*

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Once an item is hidden, a comment will be published informing the person posting the content that it was hidden for violation of the terms of use, and that they may contact the department through a direct, private, or email message to learn how they can rewrite their comment so that their opinion or viewpoint can be shared with the public.

In the event an item is deleted in lieu of being hidden (depending on platform characteristics), a screen shot shall be taken prior to the deletion of the content.

### **388.7 RETENTION OF RECORDS**

The Administrative Services Division Commander should work with the Custodian of Records to establish a method of ensuring that public records generated in the process of social media use are retained in accordance with established records retention schedules.

### **388.8 DESIGN AND DEVELOPMENT**

There shall be uniformity in all aspects of the department's social media channels. Online pages, written documents, brochures, stickers, banners, etc., shall all follow the guidelines dictated by the policies, procedures and team opinions. For example, if one logo is used to indicate usage or affiliation of a particular social media channel, on the department's website, then the same logo shall be used on print materials when covering that feature. This prevents confusion and lends credibility to the authenticity.

Content shall be written in a similar manner. The style, tone and definitions shall remain the same across all social media channels. When writing content, members of the team must be cognizant who they are writing for, and how the particular audience speak and read.

All content shall adhere to applicable department policies, state, and federal laws. Content is subject to public records laws. Although in most cases the content distributed by the department is meant to be permanent, removal from department social media channels shall be in accordance with applicable retention schedules.

In the event a legal request has been made for content used on a department social media channel, and all procedures have been followed, the content shall be retrievable and given to the department member requesting such information.

We recognize there are design differences in all social media channels. One channel may allow the uploading of a certain sized image, while another may require a different size. It is impossible for the department to regulate exact specifics for all social media channels.

### **Additional Requirements**

***Department Use of Social Media***

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- Where possible, each social media page shall include an Introductory statement that clearly specifies the purpose and scope of the agency's presence on the web site
- Where possible, the page(s) should link to the department's official web site
- Social media page(s) shall be designed for the target audience(s) such as youth or potential Police recruits
- All department social media sites or pages shall be approved by the Chief of Police
- Where possible, social media pages shall clearly indicate they are maintained by the department and shall have department contact information prominently displayed
- Social media content shall adhere to applicable laws, regulations and policies, including all information technology and records management policies
- Content is subject to public records laws. Relevant records retention schedules apply to social media content
- Content must be managed, stored and retrieved to comply with open records laws and e discovery laws and policies
- Where possible, social media pages should state that the opinions expressed by visitors to the page(s) do not reflect the opinions of the department
- Pages shall clearly indicate that posted comments will be monitored and that the department reserves the right to remove obscenities, off-topic comments and personal attacks
- Pages shall clearly indicate that any content posted or submitted for posting is subject to public disclosure.

**388.8.1 CONTENT DISCLAIMERS, TERMS OF SERVICE AND PRIVACY POLICY**

If allowed, all social media channels should have an introductory statement which should:

- Briefly introduce the department
- Clearly define the department's goals with social media use
- Establish any disclaimers or terms of use
- Make contact information for the team available

All social media channels used by the department shall be approved by the Chief Of Police, or his/her designee. However, testing may occur on an "un-official, non-advertised" basis for purpose of research and development, prior to presentation to the Chief of Police.

## Department Use of Social Media

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In regards to disclaimers and terms of use; There shall be statements placed on the social media channels clearly indicating that:

- The particular social media channel exists for people having an interest in the Clovis Police Department
- The social media channel exists to provide information and a platform for people to interact with the department
- Posting anything on the particular social media channel constitutes acceptance of the terms of use
- In case of an emergency, or if police assistance is needed, the person is to dial 911; A posting on the social media channel will not render them immediate assistance
- In the event a person posts information related to a crime, they may be placing themselves in a position of becoming a witness and subject to being subpoenaed into court

### **388.9 DEPARTMENT SOCIAL MEDIA VALUES**

Our social media principals have been developed as a guide to team members, as they enter the realm of media relations on the internet. The principals are meant to ensure our department's representation online is conducted in a positive manner.

#### **Our Shared Values**

The Social Media Team's conversations, news releases, information, photographs and videos shall be guided by the following shared values:

- **Integrity:** To be real and transparent with the department's audience
- **Accountability:** The team is responsible for any media distributed, whether accurate or not
- **Passion:** It is necessary that every member of the team is passionate about their assignment, as one's commitment is indicative in the media they distribute, as well as the frequency it is distributed
- **Quality:** The team shall always strive for perfection, as once media is released on the world wide web, it cannot be reclaimed

#### **Our 5 Core Social Media Values**



# Clovis Police Department

## Clovis Police Department Policy Manual

### Department Use of Social Media

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The department is committed strongly to the following core values. Members of the team are expected to maintain the same strong commitment to the values, which are:

- **Transparency:** We shall not mislead, "bend the truth," lie or attempt to cover up any information we need to distribute to the public. When dealing with questionable issues, team members shall seek guidance from the department's administration
- **Protection:** We shall be constantly mindful to protect our victims, witnesses, informants, anonymous tipsters from any form of retaliation, threats, and intimidation which may occur thru the social media channels
- **Respect:** The team shall respect the opinions, comments, cultures, and religions of all those we encounter online. How team members conduct themselves online is not only a direct reflection of themselves, but the department as well. In matters concerning irate, angry, or confrontational individuals, the team will not engage in "flame" wars or take an argumentative tone when attempting to ease or quell the other party
- **Responsibility:** We shall be looked upon as a responsible organization who is not using ulterior motives or technologies to spy on or spam the public
- **Relevancy:** The team shall use social media channels and technology which are relevant, necessary and beneficial to the department's mission

## Gun Violence Restraining Orders

### 390.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for petitioning and serving gun violence restraining orders and accounting for the firearms obtained pursuant to those orders.

#### 390.1.1 DEFINITIONS

Definitions related to this policy include:

**Gun violence restraining order** - Civil restraining order prohibiting a named person from controlling, owning, purchasing, possessing, receiving, or otherwise having custody of any firearms or ammunition, including an ammunition magazine (Penal Code § 18100).

### 390.2 POLICY

It is the policy of the Clovis Police Department to petition and serve gun violence restraining orders in compliance with state law and to properly account for firearms and ammunition obtained by the Department pursuant to such orders.

### 390.3 GUN VIOLENCE RESTRAINING ORDERS

An officer who reasonably believes a person is a present danger to him/herself or another person by controlling, owning, purchasing, possessing, receiving, or otherwise having custody of a firearm may request permission from his/her supervisor to petition the court for a gun violence restraining order.

Officers petitioning the court should use the forms established by the Judicial Council (Penal Code § 18105). The petition should describe the number, types, and locations of any firearms and ammunition that the officer believes to be possessed or controlled by the person (Penal Code § 18107). The petition should also describe why less-restrictive alternatives are ineffective or inadequate for the circumstances (Penal Code § 18125; Penal Code § 18150; Penal Code § 18175).

If it is not practical under the circumstances to submit a written petition, an officer may orally request an order, and then prepare and sign a declaration under penalty of perjury that recites the oral statements provided to the judicial officer and memorialize the order of the court on the appropriate Judicial Council form (Penal Code § 18140).

### 390.4 SERVICE OF GUN VIOLENCE RESTRAINING ORDERS

An officer serving any gun violence restraining order shall:

- (a) Verbally ask the subject of the order if he/she has any firearm, ammunition, or magazine in his/her possession or under his/her custody or control (Penal Code § 18160).
- (b) Request that any firearms or ammunition be immediately surrendered and issue a receipt for the surrendered items (Penal Code § 18120).

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## Clovis Police Department Policy Manual

### Gun Violence Restraining Orders

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- (c) Take into temporary custody any firearm or other deadly weapon discovered in plain view or pursuant to consent or other lawful search (Penal Code § 18250).
- (d) Inform the restrained person of any scheduled hearing regarding the order (Penal Code § 18160).
- (e) Transmit the original proof of service form to the issuing court as soon as practicable but within one business day (Penal Code § 18115).
- (f) As soon as practicable, but by the end of his/her shift, submit proof of service to the Records Supervisor for prompt entry into the California Restraining and Protective Order System (Penal Code § 18115).

The officer should also inform the restrained person that he/she is required, within 24 hours, to surrender to a law enforcement agency any other firearms and ammunition he/she owns or that are in his/her custody or control or sell them to a firearms dealer. This notification should be documented.

All firearms and ammunition collected shall be handled and booked in accordance with the Property and Evidence Policy.

#### **390.4.1 SERVICE OF ORAL GUN VIOLENCE RESTRAINING ORDERS**

If a gun violence restraining order is obtained orally, the officer shall (Penal Code § 18140):

- (a) Serve the order on the restrained person in the manner outlined above, if the restrained person can reasonably be located.
- (b) File a copy of the order with the court as soon as practicable after issuance.
- (c) Ensure the order is provided to the Records and Public Services for entry into the computer database system for protective and restraining orders maintained by the Department of Justice.

#### **390.5 SEARCH WARRANTS**

If a person who has been served with a gun violence restraining order refuses to surrender any firearm or ammunition, the officer should consider whether to seek a search warrant. If a search warrant is to be obtained, the preparation and service of the search warrant shall be done in accordance with the Warrant Service Policy. Additionally, (Penal Code § 1542.5):

- (a) The officer serving the warrant shall take custody of any firearm or ammunition that is controlled, possessed or owned by the person who is the subject of the gun violence restraining order, including any discovered pursuant to the warrant, a consensual search or other lawful search.
- (b) If the location being searched is jointly occupied and the firearm or ammunition is owned by a person other than the restrained person, the firearm or ammunition should not be seized if the following conditions are met:
  - 1. The firearm or ammunition can be stored in a manner that does not allow the restrained person to have control or access.

# Clovis Police Department

Clovis Police Department Policy Manual

## Gun Violence Restraining Orders

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2. There is no evidence that the owner unlawfully possesses the firearm or ammunition.
- (c) If a locked gun safe belonging to someone other than the subject of a gun violence restraining order is discovered, the officer shall not search the contents of the safe unless the owner consents or there is a valid search warrant for the safe. Any search of the safe must be done in the owner's presence.

### **390.6 RECORDS SUPERVISOR RESPONSIBILITIES**

The Records Supervisor is responsible for ensuring:

- (a) Proof of service of any gun violence restraining order served by an officer or received from the clerk of the court is entered in the computer database system for protective and restraining orders maintained by the Department of Justice within one business day of service if served by an officer, or within one business day of receipt of proof of service if served by a person other than a law enforcement officer (Penal Code § 18115).
- (b) Oral orders are entered into the California Restraining and Protective Order System (Penal Code § 18140).
- (c) Copies of receipts of surrendered firearms or ammunition issued by other agencies for gun violence restraining orders issued by the Department are properly maintained (Penal Code § 18120).

### **390.7 COURT-ORDERED FIREARMS AND AMMUNITION SURRENDERS**

Authorized members shall accept firearms and ammunition from any individual who is the subject of a gun violence restraining order. The member receiving any firearm or ammunition shall:

- (a) Record the individual's name, address and telephone number.
- (b) Record the serial number of the firearm.
- (c) Prepare an incident report and property report.
- (d) Provide a property receipt to the individual who surrendered the firearms and ammunition.
- (e) Package and submit the firearms and ammunition in accordance with the Property and Evidence Policy.

### **390.8 RELEASE OF FIREARMS AND AMMUNITION**

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order and in accordance with Penal Code § 18120 and the Property and Evidence Policy.

## **Chapter 4 - Patrol Operations**

## **Patrol Function**

### **400.1 PURPOSE AND SCOPE**

The purpose of this policy is to define the functions of the patrol unit of the Department to ensure intra-department cooperation and information sharing.

#### **400.1.1 FUNCTION**

Officers will generally patrol in clearly marked vehicles, patrol assigned jurisdictional areas of Clovis, respond to calls for assistance, act as a deterrent to crime, enforce state and local laws and respond to emergencies 24 hours per day seven days per week.

Patrol will generally provide the following services within the limits of available resources:

- (a) Patrol that is directed at the prevention of criminal acts, traffic violations and collisions, the maintenance of public order, and the discovery of hazardous situations or conditions
- (b) Crime prevention activities such as residential inspections, business inspections, community presentations, etc.
- (c) Calls for service, both routine and emergency in nature
- (d) Investigation of both criminal and non-criminal acts
- (e) The apprehension of criminal offenders
- (f) Community Oriented Policing and Problem Solving activities such as citizen assists and individual citizen contacts of a positive nature
- (g) The sharing of information between the Patrol and other division within the Department, as well as other outside governmental agencies
- (h) The application of resources to specific problems or situations within the community, which may be improved or resolved by Community Oriented Policing and problem solving strategies
- (i) Traffic direction and control

### **400.2 PATROL INFORMATION SHARING PROCEDURES**

The following guidelines are intended to develop and maintain intra-department cooperation and information flow between the various divisions of the Clovis Police Department.

#### **400.2.1 CRIME ANALYSIS UNIT**

The Crime Analysis Unit (CAU) will be the central unit for information exchange. Criminal information and intelligence reports can be submitted to the Records and Public Services for distribution to all divisions within the Department through daily and special bulletins.

# Clovis Police Department

## Clovis Police Department Policy Manual

### *Patrol Function*

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#### **400.2.2 CRIME REPORTS**

A crime report may be completed by any patrol officer who receives criminal information. The report will be processed and forwarded to the appropriate bureau for retention or follow-up investigation.

#### **400.2.3 PATROL BRIEFINGS**

Patrol supervisors, detective sergeants, and special unit sergeants are encouraged to share information as much as possible. All supervisors and/or officers will be provided an opportunity to share information at the daily patrol Briefings as time permits.

#### **400.2.4 INFORMATION SHARING**

Sharepoint and CCAD will be maintained to ensure information is efficiently shared throughout all divisions within the Department.

#### **400.2.5 BULLETIN BOARDS**

A bulletin board will be kept in the briefing room and the Investigation Unit for display of suspect information, intelligence reports and photographs. New Departmental Directives will be made available for patrol supervisors and will be discussed at briefings and shift meetings.

#### **400.3 CROWDS, EVENTS AND GATHERINGS**

Officers may encounter gatherings of people, including but not limited to, civil demonstrations, civic, social and business events, public displays, parades and sporting events. Officers should monitor such events as time permits in an effort to keep the peace and protect the safety and rights of those present. A patrol supervisor should be notified when it becomes reasonably foreseeable that such an event may require increased monitoring, contact or intervention.

Officers responding to an event or gathering that warrants law enforcement involvement should carefully balance the speech and association rights of those present with applicable public safety concerns before taking enforcement action. Officers are encouraged to contact organizers or responsible persons to seek voluntary compliance that may address relevant public safety/order concerns.

Officers should consider enforcement of applicable state and local laws, such as Penal Code 602.1 (obstructing or intimidating business operators), when the activity blocks the entrance or egress of a facility or location and when voluntary compliance with the law is not achieved.

## **Bias-Based Policing**

### **402.1 PURPOSE AND SCOPE**

This policy provides guidance to department members that affirms the Clovis Police Department's commitment to policing that is fair and objective.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the department's relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach, partnerships).

#### **402.1.1 DEFINITIONS**

Definitions related to this policy include:

**Bias-based policing** - An inappropriate reliance on characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement (Penal Code § 13519.4).

### **402.2 POLICY**

The Clovis Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this department to provide law enforcement services and to enforce the law equally, fairly, objectively and without discrimination toward any individual or group.

### **402.3 BIAS-BASED POLICING PROHIBITED**

Bias-based policing is strictly prohibited.

However, nothing in this policy is intended to prohibit an officer from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

#### **402.3.1 CALIFORNIA RELIGIOUS FREEDOM ACT**

Members shall not collect information from a person based on religious belief, practice, affiliation, national origin or ethnicity unless permitted under state or federal law (Government Code § 8310.3).

Members shall not assist federal government authorities (Government Code § 8310.3):

- (a) In compiling personal information about a person's religious belief, practice, affiliation, national origin or ethnicity.
- (b) By investigating, enforcing or assisting with the investigation or enforcement of any requirement that a person register with the federal government based on religious belief, practice, or affiliation, or national origin or ethnicity.



## *Bias-Based Policing*

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### **402.4 MEMBER RESPONSIBILITIES**

Every member of this department shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor. Members should, when reasonable to do so, intervene to prevent any biased-based actions by another member.

#### **402.4.1 REASON FOR CONTACT**

Officers contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

To the extent that written documentation would otherwise be completed (e.g., arrest report, field interview (FI) card), the involved officer should include those facts giving rise to the contact, as applicable.

Except for required data-collection forms or methods, nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

#### **402.4.2 REPORTING OF STOPS**

Unless an exception applies under 11 CCR 999.227, an officer conducting a stop of a person shall collect the data elements required by 11 CCR 999.226 for every person stopped and prepare a stop data report. When multiple officers conduct a stop, the officer with the highest level of engagement with the person shall collect the data elements and prepare the report (11 CCR 999.227).

If multiple agencies are involved in a stop and the Clovis Police Department is the primary agency, the Clovis Police Department officer shall collect the data elements and prepare the stop data report (11 CCR 999.227).

The stop data report should be completed by the end of the officer's shift or as soon as practicable (11 CCR 999.227).

### **402.5 TRAINING**

Training on fair and objective policing and review of this policy should be conducted as directed by the Training Unit.

- (a) All sworn members of this department will be scheduled to attend Peace Officer Standards and Training (POST)-approved training on the subject of bias-based policing.
- (b) Pending participation in such POST-approved training and at all times, all members of this department are encouraged to familiarize themselves with and consider racial and cultural differences among members of this community.
- (c) Each sworn member of this department who received initial bias-based policing training will thereafter be required to complete an approved refresher course every five years, or sooner if deemed necessary, in order to keep current with changing racial, identity and cultural trends (Penal Code § 13519.4(i)).

***Bias-Based Policing***

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**402.6 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE**

The Internal Affairs Unit Manager shall ensure that all data required by the California Department of Justice (DOJ) regarding complaints of racial bias against officers is collected and provided to the Records Supervisor for required reporting to the DOJ (Penal Code § 13012; Penal Code § 13020). See the Records and Public Services Policy.

Supervisors should ensure that data stop reports are provided to the Records Supervisor for required annual reporting to the DOJ (Government Code § 12525.5) (See Records Bureau Policy).

## Briefing Training

### **404.1 PURPOSE AND SCOPE**

Briefing training is generally conducted at the beginning of the officer's assigned shift. Briefing provides an opportunity for important exchange between employees and supervisors. A supervisor generally will conduct Briefing; however officers may conduct Briefing for training purposes with supervisor approval.

Briefing should accomplish, at a minimum, the following basic tasks:

- (a) Briefing officers with information regarding daily patrol activity, with particular attention given to unusual situations and changes in the status of wanted persons, stolen vehicles, and major investigations
- (b) Notifying officers of changes in schedules and assignments
- (c) Notifying officers of new Departmental Directives or changes in Departmental Directives
- (d) Reviewing recent incidents for training purposes
- (e) Providing training on a variety of subjects

### **404.2 PREPARATION OF MATERIALS**

The supervisor conducting Briefing is responsible for preparation of the materials necessary for a constructive briefing. Supervisors may delegate this responsibility to a subordinate officer in his or her absence or for training purposes.

## Crime and Disaster Scene Integrity

### 406.1 PURPOSE AND SCOPE

The protection and integrity of a crime scene is of the utmost importance for the successful apprehension of criminals and successful prosecution. The integrity of a disaster scene is equally as critical for the protection of life and property and investigation by proper authorities.

### 406.2 CRIME SCENE RESPONSIBILITY

The first officer at the scene of a crime or major incident is generally responsible for taking reasonable efforts to preserve the scene. Officers shall also consider officer safety and public safety, including reasonable efforts to render medical aid to any obviously injured parties. Once an officer has assumed or been assigned to maintain the integrity of the crime/disaster scene, the officer shall continue to do so until he/she is relieved by a supervisor.

#### 406.2.1 FIRST RESPONDER CONSIDERATIONS

The following list generally describes the functions which the first responder should reasonably attempt to take at a crime or disaster scene. This list is not intended to be all-inclusive, is not necessarily in order and may be altered according to the demands of each situation, the availability of resources, capacity of personnel and totality of each circumstance:

- (a) Ensure no suspects are still in the area.
- (b) Broadcast emergency information, including all requests for additional assistance.
- (c) Provide first aid to injured parties if it can be done safely.
- (d) Evacuate the location as required.
- (e) Secure the inner and outer perimeter if needed.
- (f) Protect items of apparent evidentiary value.
- (g) Identify potential witnesses.
- (h) Start a chronological log noting critical times and personnel allowed access.

#### 406.2.2 EXECUTION OF HEALTH ORDERS

Any sworn member of this department is authorized to enforce all orders of the local health officer that have been issued for the purpose of preventing the spread of any contagious, infectious or communicable disease (Health and Safety Code § 120155).

### 406.3 SEARCHES AT CRIME OR DISASTER SCENES

Officers arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims and determine if suspects are present and continue to pose a threat. Once officers are satisfied that no additional suspects are present and/or there are no injured persons to be treated, those exigent circumstances will likely no longer exist. Officers should thereafter secure the scene and conduct no further search until proper authority for the search is obtained.

***Crime and Disaster Scene Integrity***

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**406.3.1 CONSENT**

Officers should seek consent to search from authorized individuals where possible. However, in the case of serious crimes or major investigations, it may be prudent to obtain a search warrant. Consent may be sought even in cases where a search warrant has been granted.

## **Ride-Along Policy**

### **410.1 PURPOSE AND SCOPE**

The Ride-Along Program provides an opportunity for citizens to experience the law enforcement function first hand. This policy provides the requirements, approval process, and hours of operation for the Ride-Along Program.

#### **410.1.1 ELIGIBILITY**

The Clovis Police Department Ride-Along Program is offered to those meeting the following requirements:

- At least 18 years of age or no younger than 14 years of age if currently enrolled in a criminology or related course of study with written request on school letterhead from the instructor and permission from a parent or legal gaurdian.
- In good health at the time of the ride-along.

Riders meeting the above requirements must also be at least one of the following:

- A resident of Clovis.
- A Cadet enrolled in or attending a POST Police Academy.
- A member of a City of Clovis civic or business organization.
- Clovis Police Department Applicant.
- Law Enforcement member from another agency.
- A Student of a law enforcement education program with a major in criminology or other law enforcement related field.
- Or otherwise affiliated with the Clovis Police Department.

Individuals personally known by the hosting officer shall not ride more than once per shift rotation, excluding civilian employees or those individuals associated with the Clovis Police Department. The Watch Commander may grant exceptions.

#### **410.1.2 AVAILABILITY**

Unless otherwise specified by the Chief of Police, Divislon Commander, or Watch Commander, the Ride-Along Program is available seven days a week. The ride-along times are from 6:00 a.m. to 2:00 a.m. Exceptions, alterations, or amendments to this time schedule may be made as approved by the Chief of Police, Division Commander, or Watch Commander.

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## Clovis Police Department Policy Manual

### *Ride-Along Policy*

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#### **410.2 OFFICER'S RESPONSIBILITY**

The officer shall advise the dispatcher that a ride-along is present in the vehicle before going into service. Officers shall consider the safety of the ride-along at all times. Officers should use sound discretion when encountering a potentially dangerous situation, and if feasible, let the participant out of the vehicle in a well-lighted place of safety. The dispatcher will be advised of the situation and as soon as practical have another police unit respond to pick up the participant at that location. The ride-along may be continued or terminated at this time.

The records personnel is responsible for maintaining and scheduling ride-alongs. Upon completion of the ride-along, the yellow form shall be returned to the records personnel with any comments which may be offered by the officer.

#### **410.3 CONTROL OF RIDE-ALONG**

The assigned officer shall maintain control over the ride-along at all times and instruct him/her in the conditions that necessarily limit their participation. These instructions should include:

- (a) The ride-along will follow the directions of the officer
- (b) The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects, or handling any police equipment
- (c) The ride-along may terminate the ride at any time and the officer may return the observer to their home or to the station if the ride-along interferes with the performance of the officer's duties
- (d) Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety
- (e) Officers will not allow any ride-alongs to be present in any residences or situations that would jeopardize their safety or cause undue stress or embarrassment to a victim or any other citizen
- (f) Under no circumstance shall a civilian ride along be permitted to enter a private residence with an officer without the expressed consent of the resident or other authorized person

## Hazardous Material Response

### 412.1 PURPOSE AND SCOPE

Hazardous materials present a potential harm to employees resulting from their exposure. To comply with Title 8, California Code of Regulations, § 5194, the following is to be the policy of this department.

#### 412.1.1 HAZARDOUS MATERIAL DEFINED

A hazardous material is a substance which by its nature, containment and reactivity, has the capability of inflicting harm during exposure; characterized as being toxic, corrosive, flammable, reactive, an irritant or strong sensitizer and thereby posing a threat to health when improperly managed.

### 412.2 HAZARDOUS MATERIAL RESPONSE

Employees may encounter situations involving suspected hazardous materials, such as at the scene of a traffic accident, chemical spill or fire. When employees come into contact with a suspected hazardous material, certain steps should be taken to protect themselves and citizens.

The following steps should be considered at any scene involving suspected hazardous materials:

- (a) Attempt to identify the type of hazardous substance. (Identification can be determined by placard, driver's manifest or statements from the person transporting).
- (b) Notify the Fire Department.
- (c) Provide first-aid for injured parties if it can be done safely and without contamination.
- (d) Begin evacuation of the immediate area and surrounding areas, depending on the substance. Voluntary evacuation should be considered; however, depending on the substance, mandatory evacuation may be necessary.
- (e) Notify the local health authority. Such notification is mandatory when a spilled or released item is a pesticide (Health and Safety Code § 105215).
- (f) Notify the Department of Toxic Substances Control. This is mandatory when an officer comes in contact with, or is aware of, the presence of a suspected hazardous substance at a site where an illegal controlled substance is or was manufactured (Health and Safety § 25354.5).

### 412.3 REPORTING EXPOSURE(S)

Department personnel who believe that they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the employee in an employee memorandum that shall be forwarded via chain of command to the Commanding Officer. Should the affected employee be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the memorandum.



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## Clovis Police Department Policy Manual

### *Hazardous Material Response*

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Injury or illness caused or believed to be caused from exposure to hazardous materials shall be reported the same as any other on-duty injury or illness in addition to a crime report or incident report.

#### **412.3.1 SUPERVISOR RESPONSIBILITY**

When a supervisor has been informed that an employee has been exposed to a hazardous material, he/she shall ensure that immediate medical treatment is obtained and appropriate action is taken to lessen the exposure.

To ensure the safety of employees, safety equipment is available through supervisory personnel. Safety items not maintained by the Department will be obtained through the Fire Department.

## Hostage and Barricade Incidents

### 414.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers have legal cause to contact, detain or arrest a person, and the person refuses to submit to the lawful requests of the officers by remaining in a structure or vehicle and/or by taking a hostage.

The scope of this policy is not intended to address all variables that officers encounter during their initial response or when a hostage or barricade situation has developed. This policy does not require or purport to recommend specific strategies or tactics for resolution as each incident is a dynamic and rapidly evolving event.

#### 414.1.1 DEFINITIONS

Definitions related to this policy include:

**Barricade situation** - An incident where a person maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a dangerous or deadly weapon.

**Hostage situation** - An incident where it is reasonable to believe a person is:

- (a) Unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.
- (b) Unlawfully held against his/her will under threat or actual use of force.

### 414.2 POLICY

It is the policy of the Clovis Police Department to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence.

### 414.3 COMMUNICATION

When circumstances permit, initial responding officers should try to establish and maintain lines of communication with a barricaded person or hostage-taker. Officers should attempt to identify any additional subjects, inquire about victims and injuries, seek the release of hostages, gather intelligence information, identify time-sensitive demands or conditions and obtain the suspect's surrender.

When available, department-authorized negotiators should respond to the scene as soon as practicable and assume communication responsibilities. Negotiators are permitted to exercise flexibility in each situation based upon their training, the circumstances presented, suspect actions or demands and the available resources.

#### 414.3.1 EMERGENCY COMMUNICATIONS

Only an officer who has been designated by the District Attorney or Attorney General may use or authorize the use of an electronic amplifying or recording device to eavesdrop on or record,

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or both, oral communication in response to an emergency situation involving a hostage or the barricading of a location, and only when (Penal Code § 633.8(b)):

- (a) The officer reasonably determines an emergency situation exists that involves the immediate danger of death or serious physical injury to any person within the meaning of 18 USC § 2518(7)(a)(i),
- (b) The officer reasonably determines that the emergency situation requires that eavesdropping on oral communication occur immediately, and
- (c) There are grounds upon which an order could be obtained pursuant to 18 USC § 2516(2).
- (d) An application for an order approving the eavesdropping and complying with the requirements of Penal Code § 629.50 is made within 48 hours of the beginning of the eavesdropping.
- (e) The contents of any oral communications overheard are recorded on tape or other comparable device.

### **414.3.2 SUPERVISOR RESPONSIBILITY**

The shift sergeant will control the scene until turned over to higher ranking officer. The shift sergeant will then take control of the outer perimeter. He/She will also prepare intelligence information pending the arrival of the S.W.A.T. Team.

The decision to request S.W.A.T. shall be made after the shift sergeant and division commander and/or chief of police have evaluated the situation. If the division commander and the chief of police are unavailable, the shift sergeant shall make the decision.

### **414.4 FIRST RESPONDER CONSIDERATIONS**

First responding officers should promptly and carefully evaluate all available information to determine whether an Incident Involves, or may later develop into, a hostage or barricade situation.

The first responding officer should immediately request a supervisor's response as soon as it is determined that a hostage or barricade situation exists. The first responding officer shall assume the duties of the supervisor until relieved by a supervisor or a more qualified responder. The officer shall continually evaluate the situation, including the level of risk to officers, to the persons involved and to bystanders, and the resources currently available.

The handling officer should brief the arriving supervisor of the incident, including information about suspects and victims, the extent of any injuries, additional resources or equipment that may be needed, and current perimeters and evacuation areas.

#### **414.4.1 BARRICADE SITUATION**

Unless circumstances require otherwise, officers handling a barricade situation should attempt to avoid a forceful confrontation in favor of stabilizing the incident by establishing and maintaining lines of communication while awaiting the arrival of specialized personnel and trained negotiators.

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During the interim the following options, while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- (d) Provide responding emergency personnel with a safe arrival route to the location.
- (e) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.
- (f) Attempt or obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.
- (g) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.
- (h) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (i) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the Public Information Officer (PIO).
- (j) If necessary and available, establish a tactical or exclusive radio frequency for the incident.
- (k) Establish a command post.

#### 414.4.2 HOSTAGE SITUATION

Officers presented with a hostage situation should attempt to avoid a forceful confrontation in favor of controlling the incident in anticipation of the arrival of specialized personnel and trained hostage negotiators. However, it is understood that hostage situations are dynamic and can require that officers react quickly to developing or changing threats. The following options, while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Establish a rapid response team in the event it becomes necessary to rapidly enter a building, structure or vehicle, such as when the suspect is using deadly force against any hostages (see the Rapid Response and Deployment Policy).

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- (d) Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated if practicable pending further interview.
- (e) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- (f) Provide responding emergency personnel with a safe arrival route to the location.
- (g) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.
- (h) Coordinate pursuit or surveillance vehicles and control of travel routes.
- (i) Attempt to obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.
- (j) Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.
- (k) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (l) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the PIO.
- (m) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

### **414.5 SUPERVISOR RESPONSIBILITIES**

Upon being notified that a hostage or barricade situation exists, the supervisor should immediately respond to the scene, assess the risk level of the situation, establish a proper chain of command and assume the role of Incident Commander until properly relieved. This includes requesting a Special Weapons and Tactics Team (SWAT) response if appropriate and apprising the SWAT Commander of the circumstances. In addition, the following options should be considered:

- (a) Ensure injured persons are evacuated and treated by medical personnel.
- (b) Ensure the completion of necessary first responder responsibilities or assignments.
- (c) Request crisis negotiators, specialized units, additional personnel, resources or equipment as appropriate.
- (d) Establish a command post location as resources and circumstances permit.
- (e) Designate assistants who can help with intelligence information and documentation of the incident.
- (f) If it is practicable to do so, arrange for video documentation of the operation.
- (g) Consider contacting utility and communication providers to restrict such services (e.g., restricting electric power, gas, telephone service).

1. When considering restricting communication services, a supervisor should make the determination that there is reason to believe an emergency situation exists

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involving immediate danger of death or great bodily harm and that an interruption to communication services is necessary to protect public safety (Penal Code § 11471). The supervisor must ensure the Department obtains a court order, in accordance with Penal Code § 11472, prior to requesting the interruption. In the case of an extreme emergency when there is insufficient time to obtain an order prior to the request, application for the order must be submitted within six hours after initiating the interruption. If six hours is not possible, then the application for the court order shall be made at the first reasonably available opportunity, but no later than 24 hours in accordance with Penal Code § 11475.

- (h) Ensure adequate law enforcement coverage for the remainder of the City during the incident. The supervisor should direct non-essential personnel away from the scene unless they have been summoned by the supervisor or Communications.
- (i) Identify a media staging area outside the outer perimeter and have the department Public Information Officer or a designated temporary media representative provide media access in accordance with the Media Relations Policy.
- (j) Identify the need for mutual aid and the transition or relief of personnel for incidents of extended duration.
- (k) Debrief personnel and review documentation as appropriate.

#### **414.6 SWAT RESPONSIBILITIES**

The Incident Commander will decide, with input from the SWAT Commander, whether to deploy the SWAT Team during a hostage or barricade situation. Once the Incident Commander authorizes deployment, the SWAT Commander or the authorized designee will be responsible for the tactical portion of the operation. The Incident Commander shall continue supervision of the command post operation, outer perimeter security and evacuation, media access and support for the SWAT. The Incident Commander and the SWAT Commander or the authorized designee shall maintain communications at all times.

#### **414.7 REPORTING**

Unless otherwise relieved by a supervisor or Incident Commander, the handling officer at the scene is responsible for completion and/or coordination of incident reports.

## Immigration Violations

### 415.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Clovis Police Department relating to immigration and interacting with federal immigration officials.

#### 415.1.1 DEFINITIONS

The following definitions apply to this policy (Government Code § 7284.4):

**Criminal immigration violation** - Any federal criminal immigration violation that penalizes a person's presence in, entry, or reentry to, or employment in, the United States. This does not include any offense where a judicial warrant already has been issued.

**Judicial warrant** - An arrest warrant for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge.

### 415.2 POLICY

It is the policy of the Clovis Police Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

### 415.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and without regard to race, ethnicity, or national origin in any way that would violate the United States or California constitutions.

### 415.4 IMMIGRATION INQUIRIES PROHIBITED

Officers shall not inquire into an individual's immigration status for immigration enforcement purposes (Government Code § 7284.6).

### 415.5 DETENTIONS AND ARRESTS

An officer shall not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant (Government Code § 7284.6).

An officer who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of 8 USC § 1326(a) (unlawful reentry) that may be subject to an enhancement due to a previous conviction of an aggravated felony under USC § 1326(b)(2), may detain the person for a reasonable period of time to contact federal immigration officials to verify

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whether the United States Attorney General has granted the individual permission for reentry and whether the violation is subject to enhancement (Government Code § 7284.6). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has violated 8 USC § 1326(a) and the penalty may be subject to enhancement due to prior conviction for specified aggravated felonies, he/she may arrest the individual for that offense (Government Code § 7284.6).

An officer shall not detain any individual, for any length of time, for any other criminal immigration violation of federal immigration laws (Government Code § 7284.6).

An officer should notify a supervisor as soon as practicable whenever an individual is arrested for violation of 8 USC § 1326(a).

### **415.5.1 SUPERVISOR RESPONSIBILITIES**

When notified that an officer has arrested an individual for violation of 8 USC § 1326(a) or under the authority of a judicial warrant, the supervisor should determine whether it is appropriate to:

- (a) Transfer the person to federal authorities.
- (b) Transfer the person to jail.

### **415.6 FEDERAL REQUESTS FOR ASSISTANCE**

Absent an urgent issue of officer safety or other emergency circumstances, requests by federal Immigration officials for assistance from this department should be directed to a supervisor. The supervisor is responsible for determining whether the requested assistance would be permitted under the California Values Act (Government Code § 7284.2 et seq.).

### **415.7 INFORMATION SHARING**

No member of this department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373; Government Code § 7284.6):

- (a) Sending information to, or requesting or receiving such information from federal immigration officials
- (b) Maintaining such information in department records
- (c) Exchanging such information with any other federal, state, or local government entity

Nothing in this policy restricts sharing information that is permissible under the California Values Act.

#### **415.7.1 IMMIGRATION DETAINERS**

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 (Government Code § 7284.6).



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Notification to a federal authority may be made prior to release of an individual who is the subject of a notification request only if the individual meets one of the following conditions (Government Code § 7282.5; Government Code § 7284.6):

- (a) The individual has been arrested and had a judicial probable cause determination for a serious or violent felony identified in Penal Code § 667.5(c) or Penal Code § 1192.7(c).
- (b) The individual has been arrested and had a judicial probable cause determination for a felony punishable by time in a state prison.
- (c) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).
- (d) The individual is a current registrant on the California Sex and Arson Registry.
- (e) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

#### 415.7.2 NOTICE TO INDIVIDUALS

Individuals in custody shall be given a copy of documentation received from U.S. Immigration and Customs Enforcement (ICE) regarding a hold, notification, or transfer request along with information as to whether the Clovis Police Department intends to comply with the request (Government Code § 7283.1).

If the Clovis Police Department provides ICE with notification that an individual is being, or will be, released on a certain date, the same notification shall be provided in writing to the individual and to his/her attorney or to one additional person who the individual may designate (Government Code § 7283.1).

#### 415.7.3 ICE INTERVIEWS

Before any interview regarding civil immigration violations takes place between ICE personnel and an individual in custody, the Clovis Police Department shall provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that he/she may decline to be interviewed or may choose to be interviewed only with his/her attorney present. The consent form must be available in the languages specified in Government Code § 7283.1.

#### 415.7.4 TRANSFERS TO IMMIGRATION AUTHORITIES

Members shall not transfer an individual to immigration authorities unless one of the following circumstances exist (Government Code § 7282.5; Government Code § 7284.6):

- (a) Transfer is authorized by a judicial warrant or judicial probable cause determination.
- (b) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).
- (c) The individual is a current registrant on the California Sex and Arson Registry.

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- (d) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

### **415.7.5 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE**

The Investigations supervisor shall ensure that data regarding the number of transfers of an individual to immigration authorities, as permitted by Government Code § 7284.6(a)(4), and the offense that allowed for the transfer is collected and provided to the Records Supervisor for required reporting to the DOJ (Government Code § 7284.6(c)(2)(see the Records and Public Services Policy).

### **415.8 U VISA AND T VISA NONIMMIGRANT STATUS**

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Investigations supervisor assigned to oversee the handling of any related case. The Investigations supervisor should:

- (a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.
- (b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.
- (c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.
  - 1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
  - 2. Form I-918 Supplement B certification shall be completed if the victim qualifies under Penal Code § 679.10 (multiple serious offenses). Form I-914 Supplement B certification shall be completed if the victim qualifies under Penal Code § 236.5 or Penal Code § 679.11 (human trafficking).
- (d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.
- (e) Inform the victim liaison of any requests and their status.

#### **415.8.1 TIME FRAMES FOR COMPLETION**

Officers and their supervisors who are assigned to investigate a case of human trafficking as defined by Penal Code § 236.1 shall complete the above process and the documents needed for

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indicating the individual is a victim for the T visa application within 15 business days of the first encounter with the victim, regardless of whether it is requested by the victim (Penal Code § 236.5).

Officers and their supervisors shall complete the above process and the documents needed certifying victim cooperation for a U visa or T visa application pursuant to Penal Code § 679.10 and Penal Code § 679.11 within 90 days of a request from the victim or victim's family related to one of their assigned cases. If the victim is in removal proceedings, the certification shall be processed within 14 days of the request.

#### **415.8.2 REPORTING TO LEGISLATURE**

The Investigations supervisor or the authorized designee should ensure that certification requests are reported to the Legislature in January of each year and include the number of certifications signed and the number denied. The report shall comply with Government Code § 9795 (Penal Code § 679.10; Penal Code § 679.11).

#### **415.9 TRAINING**

The Training Coordinator should ensure that all appropriate members receive training on immigration issues.

Training should include:

- (a) Identifying civil versus criminal immigration violations.
- (b) Factors that may be considered in determining whether a criminal immigration violation has been committed.
- (c) Prohibitions contained in the California Values Act (Government Code § 7284 et seq.).

## Response to Bomb Calls

### 417.1 PURPOSE AND SCOPE

These guidelines have been prepared to assist officers in their initial response to incidents involving explosives, explosive devices, or explosion/bombing incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety shall always be the primary consideration.

### 417.2 FOUND EXPLOSIVES/SUSPECT DEVICES

When an officer responds to a call of a suspected explosive device, the following guidelines shall be followed:

- (a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging.
- (b) Secure the perimeter for a minimum of three hundred feet around the suspected device, allowing for an entrance for support personnel.
- (c) Relay as much initial information as possible to the Watch Commander without touching the device, including:
  - 1. The stated threat
  - 2. How made
  - 3. Exact comments
  - 4. Time
  - 5. Location
  - 6. Full description (e.g., size, shape, markings) of the device in question
- (d) Do not touch or transport the device to any other location.
- (e) Do not transmit on any equipment that produces radio frequency energy within 300 feet. Consideration should be given to the possibility for evacuation if a device is located within a building.
- (f) Consideration for support personnel such as paramedics and Fire Department personnel.
- (g) A search of the area should be conducted for secondary devices or other objects foreign to the area.
- (h) Found explosive or military ordnance of any type should be handled only by the Bomb Squad.
- (i) When in doubt, call for assistance from the Bomb Squad.

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### **417.3 EXPLOSION/BOMBING INCIDENTS**

When an explosion has occurred, there are multitudes of considerations which may confront the patrol officer. As in other catastrophic incidents, a rapid response will help to minimize such things as further injury to victims, contamination of the scene by gathering crowds, further damage by resulting fires or unstable structures, etc.

Whether the explosion was the result of an accident or a criminal act, the following concerns may confront you:

- Injury to victims
- First aid (primary Fire Department responsibility)
- Evacuation of victims (primary Fire Department responsibility)
- Possibility of a secondary device or other explosives or flammables

#### **417.3.1 NOTIFICATIONS**

When an explosion has occurred, the following people shall be notified as soon as practical if their assistance is needed:

- (a) Fire Department
- (b) Bomb Squad
- (c) Additional field officers
- (d) Field supervisor
- (e) Watch Commander
- (f) Detectives

#### **417.3.2 CROWD CONTROL**

No one should be allowed free access to the scene unless they have a legitimate and authorized reason for being there.

#### **417.3.3 SCENE OF INCIDENT**

As in any other crime scene, steps should immediately be taken to preserve the scene. The scene could be extended for several hundred feet. Evidence may be imbedded in nearby structures or hanging in trees and bushes, etc.

A search of the area should be conducted for other objects foreign to the area such as a secondary device. If an item is found, it should not be touched. The item should be secured and the officer should wait for the arrival of the Sheriff's Department Bomb Squad.

### **417.4 BOMB THREATS RECEIVED AT POLICE FACILITY**

This procedure shall be followed should a bomb threat call be received at the police facility and a search made for a destructive device.

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**417.4.1 BOMB THREATS RECEIVED BY TELEPHONE**

The following questions shall be asked if a call of a bomb is received at the Police Department:

- When is the bomb going to explode?
- Where is the bomb right now?
- What kind of bomb is it?
- What does it look like?
- Why did you place the bomb?

Attempt to keep the caller on the line as long as possible and obtain expanded answers to these five basic questions.

During this time, record the following:

- Time of the call
- Exact words of the person as accurately as possible
- Age and sex
- Speech patterns and/or accents
- Background noises

If the incoming call is received at the police facility on a recorded line, steps shall be taken to ensure that the recording is retrieved as evidence.

**417.4.2 RESPONSIBILITIES**

As soon as a bomb threat has been received, the Watch Commander will be advised and fully informed of the details. The Watch Commander will then direct and assign officers as required for coordinating a general building search or evacuation as he/she deems appropriate.

## **Mental Illness Commitments**

### **419.1 PURPOSE AND SCOPE**

This policy provides guidelines for when officers may take a person into custody for psychiatric evaluation and treatment (5150 commitment) (Welfare and Institutions Code § 5150).

### **419.2 POLICY**

It is the policy of the Clovis Police Department to protect the public and individuals through legal and appropriate use of the 72-hour treatment and evaluation commitment (5150 commitment) process.

### **419.3 AUTHORITY**

An officer having probable cause may take a person into custody and place the person in an approved mental health facility for 72-hour treatment and evaluation when the officer believes that, as a result of a mental disorder, the person is a danger to him/herself or others or the person is gravely disabled (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5585.50).

When determining whether to take a person into custody, officers are not limited to determining the person is an imminent danger and shall consider reasonably available information about the historical course of the person's mental disorder, which may include evidence presented from any of the following (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05):

- (a) An individual who is providing or has provided mental health treatment or related support services to the person
- (b) A family member
- (c) The person subject to the determination or anyone designated by the person

#### **419.3.1 VOLUNTARY EVALUATION**

If an officer encounters an individual who may qualify for a 5150 commitment, he/she may inquire as to whether the person desires to voluntarily be evaluated at an appropriate facility. If the person so desires, the officers should:

- (a) Transport the person to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to a 5150 commitment.
- (b) If at any point the person changes his/her mind regarding voluntary evaluation, officers should proceed with the 5150 commitment, if appropriate.
- (c) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.

#### **419.3.2 RESTRAINTS**

If the patient is violent or potentially violent, the officer will notify the ambulance staff of this concern. The staff member in charge will have discretion as to whether soft-restraints will be used.

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If these restraints are desired, the officer will wait while they are being applied to help provide physical control of the patient, if needed.

#### **419.3.3 MENTAL HEALTH DOCUMENTATION**

The officer will complete an Application For 72-Hour Detention for Evaluation and Treatment form (MH-302) and provide it to the staff member assigned to that patient. The officer will retain a copy of the 72-hour evaluation for inclusion in the case report. The officer shall also provide a verbal summary to an emergency department staff member or ambulance staff regarding the circumstances leading to the involuntary detention.

#### **419.3.4 SECURING OF WEAPONS**

If a receiving and secured facility prohibits weapons or if an extraordinary event occurs in the treatment facility and officers determine a need to secure their firearms, the firearm shall be secured in the appropriate gun locker at the facility or in the police unit.

#### **419.4 TRANSFER TO APPROPRIATE FACILITY**

Upon arrival at the facility, the officer will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking treatment voluntarily, the officer should provide the staff member with the written application for a 5150 commitment and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting officer should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported and delivered while restrained, the officer may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, officers will not apply facility-ordered restraints.

#### **419.5 DOCUMENTATION**

The officer shall complete an application for a 72-Hour detention for evaluation and treatment, provide it to the facility staff member assigned to that patient and retain a copy of the application for inclusion in the case report.

The application shall include the circumstances for officer involvement; the probable cause to believe the person is, as a result of a mental health disorder, a danger to others or him/herself or gravely disabled; and all information used for the determination of probable cause (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05).

The officer should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.

##### **419.5.1 ADVISEMENT**

The officer taking a person into custody for evaluation shall advise the person of:

- (a) The officer's name and agency.



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- (b) The fact that the person is not under criminal arrest but is being taken for examination by mental health professionals and the mental health staff will advise him/her of their rights.
- (c) The name of the facility to which the person is being taken.
- (d) If the person is being taken into custody at his/her residence, he/she should also be advised that he/she may take a few personal items, which the officer must approve, and may make a telephone call or leave a note indicating where he/she is being taken. The officer should also ask if the person needs assistance turning off any appliance or water.

The advisement shall be given in a language the person understands. If the person cannot understand an oral advisement, the information shall be provided in writing (Welfare and Institutions Code § 5150).

### **419.6 CRIMINAL OFFENSES**

Officers investigating an individual who is suspected of committing a minor criminal offense and who is being taken on a 5150 commitment should resolve the criminal matter by issuing a warning or a Notice to Appear as appropriate.

When an individual who may qualify for a 5150 commitment has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility, the officer should:

- (a) Arrest the individual when there is probable cause to do so.
- (b) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the 5150 commitment.
- (c) Facilitate the individual's transfer to jail.
- (d) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for a 5150 commitment.

In the supervisor's judgment, the individual may instead be arrested or booked and transported to the appropriate mental health facility. The supervisor should consider the seriousness of the offense, the treatment options available, the ability of this department to regain custody of the individual, department resources (e.g., posting a guard) and other relevant factors in making this decision.

### **419.7 FIREARMS AND OTHER WEAPONS**

Whenever a person is taken into custody for a 5150 commitment, the handling officers should seek to determine if the person owns or has access to any firearm or other deadly weapon defined in Welfare and Institutions Code § 8100. Officers should consider whether it is appropriate and consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g., safekeeping, evidence, consent).

Officers are cautioned that a search warrant may be needed before entering a residence or other place to search, unless lawful, warrantless entry has already been made (e.g., exigent

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### *Mental Illness Commitments*

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circumstances, consent). A search warrant may also be needed before searching for or seizing weapons

The handling officers shall issue a receipt describing the deadly weapon or any firearm seized, and list any serial number or other identification that is on the firearm. Officers shall advise the person of the procedure for the return of any firearm or other weapon that has been taken into custody (Welfare and Institutions Code § 8102 (b)) (see Property and Evidence Policy).

#### **419.7.1 PETITION FOR RETURN OF FIREARMS AND OTHER WEAPONS**

Whenever the handling officer has cause to believe that the future return of any confiscated weapon might endanger the person or others, the officer shall detail those facts and circumstances in a report. The report shall be forwarded to the Investigations, which shall be responsible for initiating a petition to the Superior Court for a hearing in accordance with Welfare and Institutions Code § 8102(c), to determine whether the weapon will be returned.

The petition to the Superior Court shall be initiated within 30 days of the release of the individual from whom such weapon has been confiscated, unless the Department makes an ex parte application to the court to extend the time to file such a petition, up to a maximum of 60 days. At the time any such petition is initiated, the Department shall send written notice to the individual informing him/her of the right to a hearing on the issue, that he/she has 30 days to confirm with the court clerk any desire for a hearing and that the failure to do so will result in the forfeiture of any confiscated weapon.

## Cite and Release Policy

### 421.1 PURPOSE AND SCOPE

Penal Code § 853.6 requires law enforcement agencies to use citation release procedures in lieu of arrest for misdemeanor offenses with certain exceptions. The State Legislature has shown the intent to release all persons on misdemeanor citations, if qualified for such release.

### 421.2 STATUTORY REQUIREMENTS

Citation releases are authorized by Penal Code § 853.6. Release by citation for misdemeanor offenses can be accomplished in two separate ways:

- (a) A field release is when the violator is released in the field without being transported to a jail facility.
- (b) A **jail release** is when a violator is released after being transported to the jail and booked.

#### 421.2.1 DISCRETION TO ARREST

While this department recognizes the statutory power of peace officers to make arrests throughout the state, officers are encouraged to use sound discretion in the enforcement of the law. On-duty officers who discover criminal activity outside the jurisdiction of the City should, when circumstances permit, consider contacting the agency having primary jurisdiction before attempting an arrest.

Off-duty officers observing criminal activity should generally take enforcement action if it reasonably appears that imminent risk to life or property exists and the reasonable opportunity does not exist to contact the law enforcement agency with primary jurisdiction. In such situations the involved officer shall clearly identify him/herself as a police officer.

Officers are authorized to use verbal or written warnings to resolve minor traffic and criminal violations when appropriate.

### 421.3 DEPARTMENT PROCEDURE

The following procedure will be followed to comply with this law.

#### 421.3.1 FIELD CITATIONS

In most misdemeanor cases an arrestee 18 years or older may be released on citation provided the individual can be satisfactorily identified, there is no outstanding arrest warrant for the individual and none of the below described disqualifying circumstances are present (Penal Code § 853.6 and Penal Code § 1270.1).

#### 421.3.2 JAIL RELEASE

In certain cases, it may be impractical to release a person arrested for misdemeanor offenses in the field. The person arrested may instead be released after booking at the jail.

# Clovis Police Department

## Clovis Police Department Policy Manual

### Cite and Release Policy

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Any person arrested for a misdemeanor offense shall be released on his/her written promise to appear after the booking procedure is completed, unless disqualified for reasons listed in Policy Manual § 420.33.

#### 421.3.3 DISQUALIFYING CIRCUMSTANCES

Penal Code § 853.6(i) specifies that a person arrested for a misdemeanor shall be released on a notice to appear unless one of following situations is present:

- (a) The person arrested is so intoxicated that he/she could be a danger to himself/herself or to others. Release may occur as soon as this condition no longer exists.
- (b) The person arrested requires medical examination or medical care or is otherwise unable to care for his/her own safety.
- (c) The person is arrested for one or more of the offenses listed in Vehicle Code §§ 40302, 40303, and 40305.
  - 1. Any person arrested for any offense listed in Vehicle Code § 40303(b) shall, in the judgment of the arresting officer, either be given a ten day notice to appear or be taken without delay before a magistrate in the county of arrest.
  - 2. If a person under Vehicle Code §§ 40303 or 40305 does not have satisfactory identification, the officer may require the individual to provide a right thumbprint (or other finger) however such print may not be used for other than law enforcement purposes.
  - 3. Should any person arrested on a notice to appear claim under penalty of perjury not to be the person listed in the notice, such person may request that his/her thumbprint be taken for comparison at a fee not to exceed the actual cost of such service.
- (d) There are one or more outstanding arrest warrants for the person.
- (e) The person could not provide satisfactory evidence of personal identification.
- (f) The prosecution of the offense or offenses for which the person was arrested or the prosecution of any other offense or offenses would be jeopardized by the immediate release of the person arrested.
- (g) There is a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by the release of the person arrested.
- (h) The person arrested demands to be taken before a magistrate or has refused to sign the notice to appear.
- (i) There is reason to believe that the person would not appear at the time and place specified in the notice to appear. The basis for this determination shall be specifically stated.

## Cite and Release Policy

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When a person is arrested on a misdemeanor offense and is not released by criminal citation, the reason for non-release shall be noted on the booking form. This form shall be submitted to the Watch Commander for approval and included with the case file in the Records and Public Services.

### **421.3.4 OTHER REASONS FOR NON-RELEASE**

If the person arrested is not released for one or more of the reasons specified in Policy Manual § 420.33, the Watch Commander shall state specifically on the booking form the reason for non-release. Such reasons for non-release may include:

- (a) Previous failure to appear is on record
- (b) The person lacks ties to the area, such as a residence, job, or family
- (c) Unusual circumstances lead the officer responsible for the release of prisoners to conclude that the suspect should be held for further investigation

### **421.3.5 INSTRUCTIONS TO CITED PERSON**

The citing officer shall, at the time he/she asks the defendant to sign the notice to appear, call attention to the time and place for appearance and take any other steps he/she deems necessary to ensure that the defendant understands his/her written promise to appear.

### **421.4 CITATION RELEASE ON MISDEMEANOR WARRANTS**

Penal Code § 827.1 allows the release by citation of a person designated in a warrant of arrest unless one of the following conditions exist:

- (a) The misdemeanor cited in the warrant involves violence
- (b) The misdemeanor cited in the warrant involves a firearm
- (c) The misdemeanor cited in the warrant involves resisting arrest
- (d) The misdemeanor cited in the warrant involves giving false information to a peace officer
- (e) The person arrested is a danger to himself or herself or others due to intoxication or being under the influence of drugs or narcotics
- (f) The person requires medical examination or medical care or was otherwise unable to care for his or her own safety
- (g) The person has other ineligible charges pending against him/her
- (h) There is reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be immediately endangered by the release of the person
- (i) The person refuses to sign the notice to appear
- (j) The person cannot provide satisfactory evidence of personal identification

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***Cite and Release Policy***

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- (k) The warrant of arrest indicates that the person is not eligible to be released on a notice to appear

**Release under this section shall be done in accordance with the provisions of this section.**

## Foreign Diplomatic and Consular Representatives

### 423.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the Clovis Police Department extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

### 423.2 POLICY

The Clovis Police Department respects international laws related to the special privileges and immunities afforded foreign diplomatic and consular representatives assigned to the United States.

All foreign diplomatic and consular representatives shall be treated with respect and courtesy, regardless of any privileges or immunities afforded them.

### 423.3 CLAIMS OF IMMUNITY

If a member comes into contact with a person where law enforcement action may be warranted and the person claims diplomatic or consular privileges and immunities, the member should, without delay:

- (a) Notify a supervisor.
- (b) Advise the person that his/her claim will be investigated and he/she may be released in accordance with the law upon confirmation of the person's status.
- (c) Request the person's identification card, either issued by the U.S. Department of State (DOS), Office of the Chief of Protocol, or in the case of persons accredited to the United Nations, by the U.S. Mission to the United Nations. These are the only reliable documents for purposes of determining privileges and immunities.
- (d) Contact the DOS Diplomatic Security Command Center at 571-345-3146 or toll free at 866-217-2089, or at another current telephone number and inform the center of the circumstances.
- (e) Verify the immunity status with DOS and follow any instructions regarding further detention, arrest, prosecution and/or release, as indicated by the DOS representative. This may require immediate release, even if a crime has been committed.

Identity or immunity status should not be presumed from the type of license plates displayed on a vehicle. If there is a question as to the status or the legitimate possession of a Diplomat or Consul license plate, a query should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state.

*Foreign Diplomatic and Consular Representatives*

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**423.4 ENFORCEMENT**

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

- (a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.
- (b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.
- (c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.
  - 1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.
- (d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:
  - 1. Diplomatic-level staff of missions to international organizations and recognized family members
  - 2. Diplomatic agents and recognized family members
  - 3. Members of administrative and technical staff of a diplomatic mission and recognized family members
  - 4. Career consular officers, unless the person is the subject of a felony warrant
- (e) The following persons may generally be detained and arrested:
  - 1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
  - 2. Support staff of missions to international organizations
  - 3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.
  - 4. Honorary consular officers
  - 5. Whenever an officer arrests and incarcerates, or detains for investigation for over two hours, a person with diplomatic and consular privileges and immunities, the officer shall promptly advise the person that he/she is entitled to have his/her government notified of the arrest or detention (Penal Code § 834c). If the individual wants his/her government notified, the officer shall begin the notification process.



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## Clovis Police Department Policy Manual

### *Foreign Diplomatic and Consular Representatives*

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#### **423.5 DOCUMENTATION**

All contacts with persons who have claimed privileges and Immunities afforded foreign diplomatic and consular representatives should be thoroughly documented and the related reports forwarded to DOS.

#### **423.6 DIPLOMATIC IMMUNITY TABLE**

Reference table on diplomatic immunity:

<b>Category</b>	<b>Arrested or Detained</b>	<b>Enter Residence Subject to Ordinary Procedures</b>	<b>Issued Traffic Citation</b>	<b>Subpoenaed as Witness</b>	<b>Prosecuted</b>	<b>Recognized Family Members</b>
<b>Diplomatic Agent</b>	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
<b>Member of Admin and Tech Staff</b>	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
<b>Service Staff</b>	Yes (note (a))	Yes	Yes	Yes	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
<b>Career Consul Officer</b>	Yes if for a felony and pursuant to a warrant (note (a))	Yes (note (d))	Yes	No for official acts Testimony may not be compelled in any case	No for official acts. Yes otherwise (note (a))	No immunity or inviolability
<b>Honorable Consul Officer</b>	Yes	Yes	Yes	No for official acts Yes otherwise.	No for official acts Yes otherwise	No immunity or inviolability
<b>Consulate Employees</b>	Yes (note (a))	Yes	Yes	No for official acts Yes otherwise.	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
<b>Int'l Org Staff (note (b))</b>	Yes (note (c))	Yes (note (c))	Yes	Yes (note (c))	No for official acts. Yes otherwise (note (c))	No immunity or inviolability

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### *Foreign Diplomatic and Consular Representatives*

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<b>Diplomatic-Level Staff of Missions to Int'l Org</b>	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
<b>Support Staff of Missions to Int'l Orgs</b>	Yes	Yes	Yes	Yes	No for official acts Yes otherwise	No immunity or inviolability

**Notes for diplomatic immunity table:**

- (a) This table presents general rules. The employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.
- (b) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or in the prevention of serious criminal acts.
- (c) A small number of senior officers are entitled to be treated identically to diplomatic agents.
- (d) Note that consul residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.

## **S.W.A.T. Team**

### **424.1 GUIDELINES FOR THE REGULATION OF THE CLOVIS POLICE DEPARTMENT SWAT TEAM**

The National Tactical Officers Association (NTOA) suggests that the Tactical Team policies include the following:

A written statement describing the mission of the SWAT unit, which also addresses the need and rationale for the team.

A written description of the composition and structure of the team. This should include an organizational chart.

A written statement describing a clear incident command and control structure that delineates chain of command and lines of communication/notification.

A written process for activation of the team; this should include a clear rationale justifying the standards for activation.

A written description of the selection process for all ranks within the team. The description should include clearly defined and validated selection criteria that are specific to the tasks to be performed.

A written description of standards regarding qualification and subsequent periodic re-qualification for all the team members. Included should be a description of the standards showing a lack of acceptable performance and the resulting process for the removal of team members who fail to meet the standards of re-qualification should be job-related and validated.

A written standard for a minimum number of hours of tactical training per month for all members and positions.

A written standard for all safety equipment including helmets, eye wear, hearing protection, body armor, equipment-bearing vests and/or belts, and footwear.

A written statement of the need and rationale behind all weapons, ammunition, diversion devices, forced entry tools, and explosives.

A written standard detailing the utilization of a valid-and complete operation plan that is written/ documented and kept for a prescribed length of time after the operation. The plan should be designed to fit all predictable utilizations of the team.

A written standard detailing the development and utilization of team incidents, reports for the activation and execution phases of all call-outs and operations.

A written standard detailing the development and utilization of an after-action critique format to be completed and kept for a prescribed length of time following all team call-outs, operations, and significant training events.

A written standard detailing the timeline and conditions for a periodic review and updating of the policy.

## ***S.W.A.T. Team***

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### **424.2 MISSION STATEMENT**

Recognizing that the presence of a highly trained, highly skilled law enforcement tactical unit has been shown to substantially reduce the risk of injury or loss of life to citizens, peace officers, and suspects; and recognizing that a well managed "team" response to critical incidents usually results in successful resolution of critical incidents, it is the intent of the Clovis Police Department SWAT Team to provide a highly trained and skilled tactical team as a resource for the Clovis Police Department in the handling of critical incidents.

The purpose of this policy is to establish the governing regulations in the selection, training, equipping, and use of the Clovis Police Department SWAT Team.

#### **424.2.1 MISSION**

The mission of the Clovis Police Department SWAT Team is to support the Clovis Police Department and any other requesting law enforcement agency with a tactical response to critical incidents. Critical incidents are defined as follows:

**Hostage Situations:** The holding of any person(s) against their will by an armed or potentially armed suspect.

**Barricade Situations:** The standoff created by an armed or potentially armed suspect in any location, whether fortified or not, who is refusing to comply with law enforcement demands for surrender.

**Sniper Situations/Active Shooter:** The firing upon citizens and/or peace officers by an armed suspect, whether stationary or mobile.

**Apprehension:** The arrest or apprehension of armed or potentially armed suspect(s) where there is a likelihood of armed resistance.

**Warrant Service:** The service of search or arrest warrants where this is a likelihood of armed or potentially armed suspect(s) and there is the potential of armed resistance.

**Personal Protection:** The security of special persons, such as VIP's, witnesses, or suspects, based on threat or potential threat to the well being of those persons.

**Special Assignments:** Any assignment, approved by the Chief of Police or designee, based upon the level of threat or the need for a special expertise.

### **424.3 TEAM COMPOSITION**

The Clovis Police Department SWAT Team is generally comprised of 21 team members including:

- (1) Lieutenant or Captain designated as SWAT Commander.
- (3) Tactical team leaders.
- Authorized number of officers that serve as tactical operators.

In addition to the SWAT team members listed above, the team will be comprised of:

- Authorized number of contract paramedics.

## ***S.W.A.T. Team***

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- Authorized number of communication dispatchers that serve as tactical dispatchers.

### **424.3.1 TEAM STRUCTURE**

The organizational structure during an operation will be as follows:

See attachment: SWATOrgChart.jpg

### **424.4 COMMAND AND CONTROL STRUCTURE**

A Clovis Police Lieutenant or Captain commands the Clovis Police Department SWAT Team. When activated for an operation, the SWAT Team Commander, or the Acting Commander (A current Team Leader) when the Commander is absent, reports directly to the Incident Commander. The SWAT Team Commander has overall responsibility for deployment of the SWAT Team, tactical decision-making and tactical resolution of the incident. The SWAT team leader(s) should be responsible for formulating and implementing the tactical plan as well as providing control and coordination of the individual team members.

The SWAT Commander is subordinate to the Incident Commander during a deployment and will present the Incident Commander with the tactical plan(s) for approval. Upon approval, the SWAT Commander will make the determination how the plan will then be performed by the team. No other person, who is not in a leadership position within the SWAT Team, will attempt to direct, supervise, or control any element or member of the SWAT Team.

### **424.5 ACTIVATION PROCESS**

SWAT Team activations take precedence over all other assignments within the Clovis Police Department. Assigned SWAT Team members become subordinate to the SWAT Team Commander until the SWAT Team Commander determines that the activation is over.

A supervisor has the authority to request activation of the SWAT team for any critical incident. The activation will commence when the responsible supervisor contacts the SWAT Team Commander or the next in the chain-of-command if the Commander is unavailable, and briefs them on the incident. The Commander or Acting Commander will then take responsibility for the conduct of the activation.

The Clovis Police Department SWAT Team is available, with the approval of the Chief of Police or designee, to any requesting law enforcement agency. When a request for the team is received, it shall be immediately forwarded to the SWAT Team Commander who will determine if in fact the situation warrants the activation of the team.

Any unit within the Clovis Police Department may request the assistance of the SWAT Team in planning or conducting appropriate operations. The unit commander or his representative will contact the SWAT Team Commander or the next in the chain-of-command if the Commander is unavailable. The SWAT Team Commander will then follow the above-described procedures for team activation.

Upon any SWAT Team activation, the SWAT Team Commander will notify the Patrol Division Commander.

## ***S.W.A.T. Team***

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### **424.6 SELECTION PROCESS**

The Clovis Police Department SWAT Team will select all prospective members from a valid selection roster created through applicant testing. Criteria for application will be based on the following:

- (a) Completion of FTO program and off probation, as well as a minimum of 3 years law enforcement experience with the Clovis Police Department.
- (b) Exceeds Standards evaluation ratings in present and previous assignments.
- (c) Satisfactory physical fitness levels including passing the most recent department physical fitness test.
- (d) Endorsement from current supervisor.
- (e) Length of service in law enforcement.
- (f) Prior SWAT or other tactical experience.

Testing will consist of a SWAT specific and validated testing including:

- (a) Physical strength, stamina, and agility.
- (b) Firearms proficiency.
- (c) Critical thinking skills and decision making under stress.
- (d) Oral interview panel.
- (e) Employment performance history.

Once accepted and assigned to the Clovis Police Department SWAT Team, all operational team members, regardless of rank or position, must maintain acceptable standards of performance as delineated in SWAT performance standards. Failure to meet the minimum acceptable standards will result in the team member being placed in a temporary, non-deployable status. Failure to meet the minimum acceptable standard as determined by the team commander based upon the individual deficiency and within the designated period of time may result in immediate removal from the team. Being placed in a temporary, non-deployable status twice within 3 years will result in consideration of removal from the team. A team member may voluntarily withdraw from the team at any time, for any reason. A team member may be removed from the team, without cause, when deemed necessary for the good of the team by the SWAT Team Commander and approved by the Chief of Police or his/her designee.

### **424.7 TRAINING STANDARDS**

The Clovis Police Department SWAT Team will train on appropriate subjects related to the mission of the SWAT Team. All training will be documented and training records will be maintained on file.

All training will be performance-oriented and SWAT Team task specific.

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### S.W.A.T. Team

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The training program will also include regular updates on legal issues facing SWAT operations. Deadly force policy and legal issues will also be a regular part of firearms training.

#### 424.7.1 TRAINING TIME

The Clovis Police Department SWAT Team will conduct training a minimum of 16 hours per month.

### 424.8 EQUIPMENT

#### 424.8.1 EQUIPMENT STANDARDS

The Clovis Police Department SWAT Team will supply their team members with at least the following safety equipment:

- (a) Ballistic helmet
- (b) Safety glasses and goggles
- (c) Hearing protection
- (d) Complete coverage ballistic entry vest
- (e) Load bearing vest or duty belt for tactical equipment
- (f) SWAT uniform
- (g) Gloves
- (h) Boots
- (i) Special weapons or equipment as authorized
- (j) Appropriate amount of ammunition for weapons training and qualification

SWAT Team members will utilize the provided utility type uniforms and footwear. Uniforms will utilize clearly visible and identifiable placards, patches, badges, or lettering that identifies the wearer of the uniform as a law enforcement officer. The SWAT Team Commander must approve all other items of personal wear or equipment. SWAT Team members to whom any item of equipment is issued, are responsible for the care and maintenance of the equipment. Failure to appropriately care for or maintain the equipment in full mission readiness will result in discipline up to removal from the team.

#### 424.8.2 SPECIAL EQUIPMENT

Recognizing that the missions of the Clovis Police Department SWAT Team are performed in a hazardous environment, and recognizing that the safety of innocent citizens, officers, and suspects is often jeopardized by the hazardous conditions, it shall be the intent of the Clovis Police Department SWAT Team to utilize special equipment, as listed below, in an attempt to lessen the risk of injury or death to all involved during the performance of a SWAT operation. **The Clovis Police Department SWAT Team recognizes, however, that the use of the special equipment in no way implies or guarantees that injury or death will not occur during a SWAT operation.**

## ***S.W.A.T. Team***

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- (a) **Primary Entry Weapons:** To include pistol, carbine, submachine gun and shotgun. Entry weapons are short-barreled weapons that enable the team member to acquire rapid target acquisition and target identification in all lighting conditions. They enhance high levels of accuracy, and provide maneuverability, reliability, stopping power, and sustained fire capability.
- (b) **High Caliber Rifles:** Commonly referred to as sniper weapon systems. These weapons allow the team member to place highly accurate rounds where needed to help resolve life-threatening incidents.
- (c) **Less Lethal Weapons or Ammunition:** Weapons or ammunition that, when used, are not normally lethal in nature. Designed to offer an alternative to the use of deadly force when appropriate.
- (d) **Sight/Sound Diversionary Devices:** Designed to save lives and reduce the potential for shooting situations by providing for a diversion for the entry or movement of SWAT Team members in a hazardous area. Utilizes a bright flash of light accompanied immediately by a loud noise.
- (e) **Breaching Tools and Ammunition:** Items such as rams, pry bars, hydraulic or other mechanical devices, special frangible shotgun rounds, etc., which are designed to force entry into barricaded or secured areas.
- (f) **Explosives:** Tactical explosives used to force entry into barricaded or secured areas, or to create an entry point for tactical teams where appropriate speed and surprise can best be accomplished through the use of the explosive. Also used to create large exterior distractions.

The SWAT Team Commander will ensure that only those team members properly trained and certified in the use of the special equipment will utilize the equipment. The SWAT Team Commander or his/her designee will be responsible for establishing the certification standards and criteria for the team.

### **424.9 MISSION PLANNING**

The Clovis Police Department SWAT Team will utilize a written planning process for all operations that are proactive or anticipatory in nature, such as warrant service. The written process will include a format that will identify:

- (a) How the operation will be conducted
- (b) Levels of command
- (c) Individual assignments
- (d) Communications
- (e) Critical intelligence gathered
- (f) Additional support required



## ***S.W.A.T. Team***

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(g) Contingency plans

All operation plans will be stored and maintained in a file for a period of time in accordance with state law.

The SWAT Team Commander will cause a log of events to be recorded on all SWAT operations, and will also cause all planning or decision-making documents to be recorded. These documents will be stored and maintained in a file for a period of time in accordance with state law.

### **424.10 DOCUMENTATION OF ACTIVATION**

The Clovis Police Department SWAT Team Commander will cause an agency incident report to be generated detailing the activation and use of the team. This report will be a standard law enforcement report-type document, which details the operation and pertinent information required for follow-up investigators, prosecutors, etc.

### **424.11 AFTER ACTION CRITIQUE**

At the completion of all SWAT operations, the SWAT Team Commander or designee will conduct an after action review. The purpose of this review will be to create a forum for team members to offer information for the improvement of the team. The after action review will be formatted to develop the following information:

- (a) Positive factors
- (b) Negative factors
- (c) Solutions for the negative factors

### **424.12 PERIODIC POLICY REVIEW**

The SWAT Team Commander will annually review and, when necessary, update this policy.

## **Emergency Utility Service**

### **430.1 PURPOSE AND SCOPE**

The City Public Works Department has personnel available to handle emergency calls 24 hours per day. Calls for service during non-business hours are frequently directed to the Police Department. Requests for such service received by this department should be handled in the following manner.

#### **430.1.1 BROKEN WATER LINES**

The City's responsibility ends at the water meter; any break or malfunction in the water system from the water meter to the citizen's residence or business is the customer's responsibility. Public Works can only turn off the valve at the meter. The citizen can normally accomplish this.

If a break occurs on the City side of the meter, emergency personnel should be called as soon as practical by Communications.

#### **430.1.2 ELECTRICAL LINES**

City Public Works does not maintain electrical lines to street light poles. When a power line poses a hazard, an officer should be dispatched to protect against personal injury or property damage that might be caused by power lines. The Electric Company or Public Works should be promptly notified, as appropriate.

#### **430.1.3 RESERVOIRS, PUMPS, WELLS, ETC.**

Public Works maintains the reservoirs and public water equipment, as well as several underpass and other street drainage pumps. In the event of flooding or equipment malfunctions, emergency personnel should be contacted as soon as possible.

#### **430.1.4 EMERGENCY NUMBERS**

A current list of emergency personnel who are to be called for municipal utility emergencies is maintained by Communications.

### **430.2 TRAFFIC SIGNAL MAINTENANCE**

The City of Clovis contracts with a private maintenance company to furnish maintenance for all traffic signals within the City, other than those maintained by the State of California.

#### **430.2.1 OFFICER'S RESPONSIBILITY**

**Upon observing a damaged or malfunctioning signal, the officer will advise the Communications of the location and problem with the signal. The dispatcher should make the necessary notification to the proper maintenance agency.**

## Aircraft Accidents

### 434.1 PURPOSE AND SCOPE

The purpose of this policy is to provide department members with guidelines for handling aircraft accidents.

This policy does not supersede, and is supplementary to, applicable portions of the Crime and Disaster Scene Integrity, Emergency Management Plan and Hazardous Material Response policies.

#### 434.1.1 DEFINITIONS

Definitions related to this policy include:

**Aircraft** - Any fixed wing aircraft, rotorcraft, balloon, blimp/dirigible or glider that is capable of carrying a person or any unmanned aerial vehicle other than those intended for non-commercial recreational use.

### 434.2 POLICY

It is the policy of the Clovis Police Department to provide an appropriate emergency response to aircraft accidents. This includes emergency medical care and scene management.

### 434.3 ARRIVAL AT SCENE

Officers or other authorized members tasked with initial scene management should establish an inner and outer perimeter to:

- (a) Protect persons and property.
- (b) Prevent any disturbance or further damage to the wreckage or debris, except to preserve life or rescue the injured.
- (c) Preserve ground scars and marks made by the aircraft.
- (d) Manage the admission and access of public safety and medical personnel to the extent necessary to preserve life or to stabilize hazardous materials.
- (e) Maintain a record of persons who enter the accident site.
- (f) Consider implementation of an Incident Command System (ICS).

### 434.4 INJURIES AND CASUALTIES

Members should address emergency medical issues and provide care as a first priority.

Those tasked with the supervision of the scene should coordinate with the National Transportation Safety Board (NTSB) before the removal of bodies. If that is not possible, the scene supervisor should ensure documentation of what was disturbed, including switch/control positions and instrument/gauge readings.

## *Aircraft Accidents*

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### **434.5 NOTIFICATIONS**

When an aircraft accident is reported to this department, the responding supervisor shall ensure notification is or has been made to NTSB, the Federal Aviation Administration (FAA), and when applicable, the appropriate branch of the military.

Supervisors shall ensure other notifications are made once an aircraft accident has been reported. The notifications will vary depending on the type of accident, extent of injuries or damage, and the type of aircraft involved. When an aircraft accident has occurred, it is generally necessary to notify the following:

- (a) Fire department
- (b) Appropriate airport tower
- (c) Emergency medical services (EMS)

### **434.6 CONTROLLING ACCESS AND SCENE AUTHORITY**

Prior to NTSB arrival, scene access should be limited to authorized personnel from the:

- (a) FAA.
- (b) Fire department, EMS or other assisting law enforcement agencies.
- (c) Coroner.
- (d) Air Carrier/Operators investigative teams with NTSB approval.
- (e) Appropriate branch of the military, when applicable.
- (f) Other emergency services agencies (e.g., hazardous materials teams, biohazard decontamination teams, fuel recovery specialists, explosive ordnance disposal specialists).

The NTSB has primary responsibility for investigating accidents involving civil aircraft. In the case of a military aircraft accident, the appropriate branch of the military will have primary investigation responsibility.

After the NTSB or military representative arrives on-scene, the efforts of this department will shift to a support role for those agencies.

If NTSB or a military representative determines that an aircraft or accident does not qualify under its jurisdiction, the on-scene department supervisor should ensure the accident is still appropriately investigated and documented.

### **434.7 DANGEROUS MATERIALS**

Members should be aware of potentially dangerous materials that might be present. These may include, but are not limited to:

- (a) Fuel, chemicals, explosives, biological or radioactive materials and bombs or other ordnance.
- (b) Pressure vessels, compressed gas bottles, accumulators and tires.

## ***Aircraft Accidents***

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- (c) Fluids, batteries, flares and igniters.
- (d) Evacuation chutes, ballistic parachute systems and composite materials.

### **434.8 DOCUMENTATION**

All aircraft accidents occurring within the City of Clovis shall be documented. At a minimum the documentation should include the date, time and location of the incident; any witness statements, if taken; the names of CPD members deployed to assist; other City resources that were utilized; and cross reference information to other investigating agencies. Suspected criminal activity should be documented on the appropriate crime report.

#### **434.8.1 WRECKAGE**

When reasonably safe, members should:

- (a) Obtain the aircraft registration number (N number) and note the type of aircraft.
- (b) Attempt to ascertain the number of casualties.
- (c) Obtain photographs or video of the overall wreckage, including the cockpit and damage, starting at the initial point of impact, if possible, and any ground scars or marks made by the aircraft.
  - 1. Military aircraft may contain classified equipment and therefore shall not be photographed unless authorized by a military commanding officer (18 USC § 795).
- (d) Secure, if requested by the lead authority, any electronic data or video recorders from the aircraft that became dislodged or cell phones or other recording devices that are part of the wreckage.
- (e) Acquire copies of any recordings from security cameras that may have captured the incident.

#### **434.8.2 WITNESSES**

Members tasked with contacting witnesses should obtain:

- (a) The location of the witness at the time of his/her observation relative to the accident site.
- (b) A detailed description of what was observed or heard.
- (c) Any photographs or recordings of the accident witnesses may be willing to voluntarily surrender.
- (d) The names of all persons reporting the accident, even if not yet interviewed.
- (e) Any audio recordings of reports to 9-1-1 regarding the accident and dispatch records.

### **434.9 MEDIA RELATIONS**

The Public Information Officer (PIO) should coordinate a response to the media, including access issues, road closures, detours and any safety information that is pertinent to the surrounding community. Any release of information regarding details of the accident itself should

### ***Aircraft Accidents***

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be coordinated with the NTSB or other authority who may have assumed responsibility for the investigation.

Depending on the type of aircraft, the airline or the military may be responsible for family notifications and the release of victims' names. The PIO should coordinate with other involved entities before the release of information.

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## Field Training Program

### 436.1 PURPOSE AND SCOPE

The Field Training Officer Program is intended to provide a standardized program to facilitate the officer's transition from the academic setting to the actual performance of general law enforcement duties of the Clovis Police Department.

It is the policy of this department to assign all new police officers to a structured Field Training Officer Program that is designed to prepare the new officer to perform in a patrol assignment, and possessing all skills needed to operate in a safe, productive, and professional manner.

### 436.2 FIELD TRAINING OFFICER - SELECTION AND TRAINING

The Field Training Officer (FTO) is an experienced officer trained in the art of supervising, training, and evaluating entry level and lateral police officers in the application of their previously acquired knowledge and skills.

#### 436.2.1 SELECTION PROCESS

FTO's will be selected based on the following requirements:

- (a) Desire to be an FTO
- (b) Minimum of five years of experience as a police officer, three of which shall be with this department
- (c) Demonstrated ability as a positive role model
- (d) Participate and pass an internal oral interview selection process
- (e) Evaluation by supervisors and current FTO's
- (f) Possess a POST Basic certificate

#### 436.2.2 TRAINING

An officer selected as a Field Training Officer shall successfully complete a POST certified (40-hour) Field Training Officer's Course prior to being assigned as an FTO.

All FTOs must complete a 24-hour Field Training Officer update course every three years while assigned to the position of FTO (11 CCR 1004).

All FTOs must meet any training mandate regarding crisis intervention behavioral health training pursuant to Penal Code § 13515.28.

## *Field Training Program*

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### **436.3 FIELD TRAINING PROGRAM SUPERVISOR/ADMINISTRATOR/COORDINATOR (FTP S.A.C.)**

The FTP S.A.C. should be selected from the rank of Sergeant or above by the Enforcement Division Commander or a designee.

The responsibilities of the FTP S.A.C. include the following:

- (a) Assignment of trainees to FTOs
- (b) Conduct FTO meetings
- (c) Maintain and ensure FTO/trainee performance evaluations are completed
- (d) Maintain, update and issue the Field Training Manual to each trainee
- (e) Monitor individual FTO performance
- (f) Monitor overall Field Training Program
- (g) Maintain liaison with Field Training Coordinators of other agencies
- (h) Maintain liaison with academy staff on recruit performance during the academy
- (i) Develop ongoing training for FTOs

The FTP S.A.C. will be required to successfully complete a POST approved Field Training Supervisor/Administrator/Coordinator Course within one year of appointment to this position (11 CCR § 1004(c)).

### **436.4 TRAINEE DEFINED**

Any entry level or lateral police officer newly appointed to the Clovis Police Department who has successfully completed a POST approved Basic Academy.

### **436.5 REQUIRED TRAINING**

Entry level officers shall be required to successfully complete the Field Training Program, consisting of a minimum of 10 weeks (11 CCR 1004; 11 CCR 1005).

The training period for a lateral officer may be modified depending on the trainee's demonstrated performance and level of experience, but shall consist of a minimum of eight weeks.

To the extent practicable, entry level and lateral officers should be assigned to a variety of Field Training Officers, shifts, and geographical areas during their Field Training Program.

### **436.6 EVALUATIONS**

Evaluations are an important component of the training process and shall be completed as outlined below.



***Field Training Program***

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**436.6.1 FIELD TRAINING OFFICER**

- (a) FTO's shall complete and submit a daily evaluation on the performance of their assigned trainee to the FTP S.A.C. on a daily basis.
- (b) FTO's shall review the Daily Evaluations with the trainee each day.
- (c) A detailed end-of-phase performance evaluation on their assigned trainee shall be completed by the FTO at the end of each phase of training.
- (d) FTO's shall be responsible for signing off all completed topics contained in the Field Training Manual, noting the method(s) of learning and evaluating the performance of their assigned trainee.

**436.6.2 FIELD TRAINING ADMINISTRATOR**

The Field Training Administrator will review and approve the Daily Trainee Performance Evaluations submitted by the FTO through his/her Immediate supervisor.

**436.6.3 TRAINEE**

At the completion of the Field Training Program, the trainee shall submit a confidential performance evaluation on each of their FTO's and on the Field Training Program.

**436.7 DOCUMENTATION**

All documentation of the Field Training Program will be retained in the officer's training files and will consist of the following:

- (a) Daily Evaluations
- (b) End of Phase Evaluations
- (c) An attestation of competency certifying that the trainee has successfully met the standards of the Field Training Program, and is capable of functioning competently in a solo capacity, signed by the trainee, final FTO, FTP S.A.C., and Chief of Police.

## Obtaining Air Support

### **438.1 PURPOSE AND SCOPE**

The use of a police helicopter can be invaluable in certain situations. This policy specifies potential situations where the use of a helicopter may be requested and the responsibilities for making a request.

### **438.2 REQUEST FOR HELICOPTER ASSISTANCE**

If a supervisor or officer in charge of an incident determines that the use of a helicopter would be beneficial, a request to obtain helicopter assistance may be made.

#### **438.2.1 REQUEST FOR ASSISTANCE FROM ANOTHER AGENCY**

After consideration and approval of the request for a helicopter, the Watch Commander, or his/her designee, will call the closest agency having helicopter support available. The Watch Commander on duty will apprise that agency of the specific details of the incident prompting the request.

#### **438.2.2 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED**

Police helicopters may be requested under any of the following conditions:

- (a) When the helicopter is activated under existing mutual aid agreements
- (b) Whenever the safety of law enforcement personnel is in jeopardy and the presence of the helicopters may reduce such hazard
- (c) When the use of the helicopters will aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community
- (d) When a helicopter is needed to locate a person who has strayed or is lost and whose continued absence constitutes a serious health or safety hazard
- (e) Vehicle pursuits

While it is recognized that the availability of helicopter support will generally provide valuable assistance to ground personnel, the presence of a helicopter will rarely replace the need for officers on the ground.

## Criminal Organizations

### 439.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that the Clovis Police Department appropriately utilizes criminal intelligence systems and temporary information files to support investigations of criminal organizations and enterprises.

### 439.2 POLICY

**Pattern of Criminal Gang Activity** - Shall mean the commission, attempted commission, conspiracy to commit, sustained juvenile petition for, or conviction of two or more of any offenses as described in Penal Code § 186.22(e).

**Criminal Street Gang** - Shall mean any on-going organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in Penal Code § 186.22(e), and which has a common name or common identifying sign or symbol, and whose members individually or collectively engage or have engaged in a pattern of criminal street gang activity.

**Gang Related Crime** - Shall mean any crime, which is committed for the benefit of, at the direction of, or in association with, a criminal street gang with the intent to promote, further or assist any criminal street gang.

### 439.3 CRIMINAL INTELLIGENCE SYSTEMS

No department member may create, submit to or obtain information from a criminal intelligence system unless the Chief of Police has approved the system for department use.

Any criminal intelligence system approved for department use should meet or exceed the standards of 28 CFR 23.20.

A designated supervisor will be responsible for maintaining each criminal intelligence system that has been approved for department use. The supervisor or the authorized designee should ensure the following:

- (a) Members using any such system are appropriately selected and trained.
- (b) Use of every criminal intelligence system is appropriately reviewed and audited.
- (c) Any system security issues are reasonably addressed.

#### 439.3.1 SYSTEM ENTRIES

It is the designated supervisor's responsibility to approve the entry of any information from a report, field interview (FI), photo or other relevant document into an authorized criminal intelligence system. If entries are made based upon information that is not on file with this department, such as open or public source documents or documents that are on file at another agency, the designated supervisor should ensure copies of those documents are retained by the Records and Public Services. Any supporting documentation for an entry shall be retained by the Records and Public

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Services in accordance with the established records retention schedule and for at least as long as the entry is maintained in the system.

The designated supervisor should ensure that any documents retained by the Records and Public Services are appropriately marked as intelligence information. The Records Supervisor may not purge such documents without the approval of the designated supervisor.

#### **439.3.2 GANG DATABASES**

The Chief of Police may approve participation by the gang unit in a shared criminal gang intelligence database, such as CALGANG®. Members must obtain the requisite training before accessing any such database.

It is the gang unit supervisor's responsibility to determine whether any report or FI contains information that would qualify for entry into the database. Prior to designating any person as a suspected gang member, associate or affiliate in a shared gang database; or submitting a document to the Attorney General's office for the purpose of designating a person in a shared gang database; or otherwise identifying the person in a shared gang database, the gang unit supervisor shall provide written notice to the person and, if the person is under the age of 18, to his/her parent or guardian of the designation and the basis for the designation, unless providing that notification would compromise an active criminal investigation or compromise the health or safety of a minor. Notice shall also describe the process to contest the designation (Penal Code § 186.34).

The person, an attorney working on his/her behalf or his/her parent or guardian (if the person is under 18 years of age) may request, in writing, information as to whether the person is designated as a suspected gang member, associate or affiliate in a shared gang database accessible by the department, the basis for that designation and the name of the agency that made the designation. The department shall respond to a valid request in writing within 30 days, and shall provide the information requested unless doing so would compromise an active investigation or compromise the health and safety of the person if he/she is under 18 years of age (Penal Code § 186.34).

The person, or his/her parent or guardian if the person is under 18 years of age, may contest the designation by submitting written documentation which shall be reviewed by the gang unit supervisor. If it is determined that the person is not a suspected gang member, associate or affiliate, the person shall be removed from the database. The person and the parent or guardian shall be provided written verification of the department's decision within 30 days of receipt of the written documentation contesting the designation and shall include the reason for a denial when applicable (Penal Code § 186.34).

The gang unit supervisor should forward reports or FIs to the Records and Public Services after appropriate database entries are made. The supervisor should clearly mark the report/FI as gang intelligence information.

It is the responsibility of the Records and Public Services supervisor to retain reports and FIs in compliance with the database rules and any applicable end user agreement.

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Records contained in a shared gang database shall not be disclosed for employment or military screening purposes, and shall not be disclosed for the purpose of enforcing federal immigration law unless required by state or federal statute or regulation (Penal Code § 186.36).

#### **439.3.3 REPORT TO THE CALIFORNIA DEPARTMENT OF JUSTICE**

The Investigation Division Commander or the authorized designee shall ensure that the annual report of information submitted to a shared gang database as required by Penal Code § 186.34 is submitted to the California Department of Justice.

#### **439.4 TEMPORARY INFORMATION FILE**

No member may create or keep files on Individuals that are separate from the approved criminal intelligence system. However, members may maintain temporary information that is necessary to actively investigate whether a person or group qualifies for entry into the department-approved criminal intelligence system only as provided in this section. Once information qualifies for inclusion, it should be submitted to the supervisor responsible for consideration of criminal intelligence system entries.

##### **439.4.1 FILE CONTENTS**

A temporary information file may only contain information and documents that, within one year, will have a reasonable likelihood to meet the criteria for entry into an authorized criminal intelligence system.

Information and documents contained in a temporary information file:

- (a) Must only be included upon documented authorization of the responsible department supervisor.
- (b) Should not be originals that would ordinarily be retained by the Records and Public Services or Property Office, but should be copies of, or references to, retained documents such as copies of reports, FI forms, Communications records or booking forms.
- (c) Shall not include opinions. No person, organization or enterprise shall be labeled as being involved in crime beyond what is already in the document or information.
- (d) May include information collected from publicly available sources or references to documents on file with another government agency. Attribution identifying the source should be retained with the information.

#### **439.5 INFORMATION RECOGNITION**

Department members should document facts that suggest an individual, organization or enterprise is involved in criminal activity and should forward that information appropriately. Examples include, but are not limited to:

- (a) Gang indicia associated with a person or residence.
- (b) Information related to a drug-trafficking operation.
- (c) Vandalism indicating an animus for a particular group.

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- (d) Information related to an illegal gambling operation.

Department supervisors who utilize an authorized criminal intelligence system should work with the Training Coordinator to train members to identify information that may be particularly relevant for inclusion.

### **439.6 RELEASE OF INFORMATION**

Department members shall comply with the rules of an authorized criminal intelligence system regarding inquiries and release of information.

Information from a temporary information file may only be furnished to department members and other law enforcement agencies on a need-to-know basis and consistent with the Records Maintenance and Release Policy.

When an inquiry is made by the parent or guardian of a juvenile as to whether that juvenile's name is in a temporary information file, such information should be provided by the supervisor responsible for the temporary information file, unless there is good cause to believe that the release of such information might jeopardize an ongoing criminal investigation.

### **439.7 CRIMINAL STREET GANGS**

The Investigations supervisor should ensure that there are an appropriate number of department members who can:

- (a) Testify as experts on matters related to criminal street gangs, and maintain an above average familiarity with:
  - 1. Any organization, associate or group of three or more persons that meets the definition of a criminal street gang under Penal Code § 186.22(f).
  - 2. Identification of a person as a criminal street gang member and criminal street gang-related crimes.
  - 3. The California Street Terrorism Enforcement and Prevention Act (Penal Code § 186.21 et seq.), associated crimes and what defines a criminal street gang (Penal Code § 186.22).
- (b) Coordinate with other agencies in the region regarding criminal street gang-related crimes and information.
- (c) Train other members to identify gang indicia and investigate criminal street gang-related crimes.

### **439.8 TRAINING**

The Training Coordinator should provide training on best practices in the use of each authorized criminal intelligence system to those tasked with investigating criminal organizations and enterprises. Training should include:

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- (a) The protection of civil liberties.
- (b) Participation in a multiagency criminal intelligence system.
- (c) Submission of information into a multiagency criminal intelligence system or the receipt of information from such a system, including any governing federal and state rules and statutes.
- (d) The type of information appropriate for entry into a criminal intelligence system or temporary information file.
- (e) The review and purging of temporary information files.

## Detentions And Photographing Detainees

### 441.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for conducting field interviews (FI) and pat-down searches, and the taking and retention of photographs of persons detained in the field but not arrested. Due to a variety of situations confronting the officer, the decision to FI or photograph a field detainee shall be left to the discretion of the involved officer based on the totality of the circumstances available to them at the time of the detention.

### 441.2 DEFINITIONS

**Detention** - Occurs when an officer intentionally, through words, actions, or physical force causes an individual to reasonably believe he/she is being required to restrict his/her movement. Detentions also occur when an officer actually restrains a person's freedom of movement.

**Consensual Encounter** - Occurs when an officer contacts an individual but does not create a detention through words, actions or other means. In other words, a reasonable individual would believe that his/her contact with the officer is voluntary.

**Field Interview** - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purposes of determining the individual's identity and resolving the officer's suspicions.

**Field Photographs** - Field photographs are defined as posed photographs taken of a person during a contact, detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio Video (MAV) system when persons are not posed for the purpose of photographing are not considered field photographs.

**Pat-Down Search** - This type of search is used by officers in the field to check an individual for weapons. It involves a thorough patting down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee, or others.

**Reasonable Suspicion** - Occurs when, under the totality of the circumstances, an officer has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

### 441.3 FIELD INTERVIEWS

Officers may stop individuals for the purpose of conducting an FI where reasonable suspicion is present. In justifying the stop, the officer should be able to point to specific facts which, when taken together with rational inferences, reasonably warrant the stop. Such facts include, but are not limited to, the following:

- (a) The appearance or demeanor of an individual suggests that he/she is part of a criminal enterprise or is engaged in a criminal act.



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- (b) The actions of the suspect suggest that he/she is engaged in a criminal activity.
- (c) The hour of day or night is inappropriate for the suspect's presence in the area.
- (d) The suspect's presence in the particular area is suspicious.
- (e) The suspect is carrying a suspicious object.
- (f) The suspect's clothing bulges in a manner that suggests he/she is carrying a weapon.
- (g) The suspect is located in proximate time and place to an alleged crime.
- (h) The officer has knowledge of the suspect's prior criminal record or involvement in criminal activity.

### 441.3.1 INITIATING A FIELD INTERVIEW

An officer may initiate the stop of a person when there is articulable, reasonable suspicion to do so. A person however, should not be detained longer than is reasonably necessary to resolve the officer's suspicions.

Nothing in this policy is intended to discourage consensual contacts. Frequent and random casual contacts with consenting individuals are encouraged by the Clovis Police Department to strengthen our community involvement, community awareness and problem identification.

### 441.3.2 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an incident may become unavailable or the integrity of their statements compromised with the passage of time, officers should, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or criminal investigators to utilize available personnel for the following:

- (a) Identify all persons present at the scene and in the immediate area.
  - 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
  - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by department personnel:
  - 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness in a department vehicle. When the witness is a minor,

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consent should be obtained from the parent or guardian, if available, prior to transportation.

**441.4 PAT-DOWN SEARCHES**

A pat-down search of a detained subject may be conducted whenever an officer reasonably believes that the person may possess an object that can be utilized as an offensive weapon or whenever the officer has a reasonable fear for his/her own safety or the safety of others. Circumstances that may establish justification for performing a pat-down search include, but are not limited to the following:

- (a) The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved.
- (b) Where more than one suspect must be handled by a single officer.
- (c) The hour of the day and the location or neighborhood where the stop takes place.
- (d) Prior knowledge of the suspect's use of force and/or propensity to carry deadly weapons.
- (e) The appearance and demeanor of the suspect.
- (f) Visual indications which suggest that the suspect is carrying a firearm or other weapon.
- (g) The age and gender of the suspect.

Whenever possible, pat-down searches should be performed by officers of the same gender.

**441.5 FIELD PHOTOGRAPHS**

Before photographing any field detainee, the officer shall carefully consider, among other things, the factors listed below.

**441.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT**

Field photographs may be taken when the subject of the photograph knowingly and voluntarily gives consent.

**441.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT**

Field photographs may be taken without consent only if they are taken during a detention that is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. Mere knowledge or suspicion of gang membership or affiliation is not a sufficient justification for taking a photograph without consent. The officer must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct.

If, prior to taking a photograph, the officer's reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph should not be taken.

## *Detentions And Photographing Detainees*

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All field photographs and related reports shall be submitted to a supervisor and retained in compliance with this policy.

### **441.6 SUPERVISOR RESPONSIBILITY**

While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices in view of the above listed considerations. This is not to imply that supervisor approval is required before each photograph. Access to field photographs shall be strictly limited to law enforcement purposes.

### **441.7 DISPOSITION OF PHOTOGRAPHS**

All detainee photographs must be adequately labeled and submitted to the Watch Commander with either an associated FI card or other memorandum explaining the nature of the contact. If an individual is photographed as a suspect in a particular crime, the photograph should be submitted as an evidence item in the related case, following standard evidence procedures.

If a photograph is not associated with an investigation where a case number has been issued, the Watch Commander should review and forward the photograph to one of the following locations:

- (a) If the photo and associated FI or memorandum is relevant to criminal street gang enforcement, the Watch Commander will forward the photo and documents to the Gang Supervisor. The Gang Supervisor will ensure the photograph and supporting documents are retained as prescribed by the Criminal Organizations Policy.
- (b) Photographs that do not qualify for Criminal Street Gang file retention or which are not evidence in an investigation with an assigned case number should be forwarded to the Records and Public Services. These photographs will be purged as described in the Purging the Field Photo File subsection of this policy.

When a photograph is taken in association with a particular case, the detective may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs will be kept in the Records and Public Services in a separate non-booking photograph file in alphabetical order.

#### **441.7.1 PURGING THE FIELD PHOTO FILE**

The Records Supervisor will be responsible for ensuring that photographs maintained by the Records and Public Services that are more than one year old and no longer serve a law enforcement purpose are periodically purged and destroyed. Photographs that continue to serve a legitimate law enforcement purpose may be retained longer than one year provided that a notation of that fact is added to the file for each additional year that they are retained. Access to the FI photo file shall be strictly limited to law enforcement purposes.

A photograph need not be purged but may be retained as an updated photograph in a prior booking file if the person depicted in the photograph has been booked at the Clovis Police Department and the booking file remains in the Records and Public Services.

## *Detentions And Photographing Detainees*

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### **441.8 PHOTO REVIEW POLICY**

Any person who has been the subject of a field photograph or an FI by this agency during any contact other than an arrest may file a written request within 30 days of the contact requesting a review of the status of the photograph/FI. The request shall be directed to the office of the Chief of Police who will ensure that the status of the photograph or FI is properly reviewed according to this policy as described below. Upon a verbal request, the Department will send a request form to the requesting party along with a copy of this policy.

#### **441.8.1 REVIEW PROCESS**

Upon receipt of such a written request, the Chief of Police or his or her designee will permit the individual to appear in person (any minor must be accompanied by their parent or legal guardian) for a review of the status of the photograph/FI.

Such a meeting will generally be scheduled during regular business hours within 30 days of the receipt of the written request. An extension of the 30-day limit may be made either upon the mutual convenience of the parties or if, at the discretion of the Chief of Police, there appears to be an ongoing legitimate law enforcement interest which warrants a delay. If the delay could jeopardize an ongoing investigation, nothing in this policy shall require the Chief of Police to disclose the reason(s) for the delay.

A meeting for the review of the status of any non-arrest photograph/FI is not intended to be a formal hearing, but simply an informal opportunity for the individual to meet with the Chief of Police or his/her designee to discuss the matter.

After carefully considering the information available, the Chief of Police or designee will determine, generally within 30 days of the original meeting, whether the photograph/FI was obtained in accordance with existing law and Clovis Police Department policy and, even if properly obtained, then whether there is any ongoing legitimate law enforcement interest in retaining the photograph/FI.

If the Chief of Police or his/her designee determines that the photograph/FI was obtained in accordance with existing law and department policy and that there is an ongoing legitimate law enforcement interest in retaining the non-arrest photograph, the photograph/FI shall be retained according to this policy and applicable law.

If the Chief of Police or his/her designee determines that the original legitimate law enforcement interest in retaining a non-arrest photograph no longer exists or that it was obtained in violation of existing law or Clovis Police Department policy, the original photograph will be destroyed or returned to the person photographed, if requested. All other associated reports or documents, however, will be retained according to department policy and applicable law.

If the Chief of Police or his/her designee determines that the original legitimate law enforcement interest in retaining a non-arrest FI no longer exists or that the original FI was not obtained in accordance with established law or Clovis Police Department policy, the original FI may only be destroyed upon the execution of a full and complete waiver of liability by the individual (and guardian if a minor) arising out of that field contact.

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## Clovis Police Department Policy Manual

### *Detentions And Photographing Detainees*

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If the Chief of Police or his/her designee determines that any involved Clovis Police Department personnel violated existing law or department policy, the Chief of Police or designee shall initiate a separate internal investigation which may result in additional training, discipline or other appropriate action for the involved employees.

The person photographed/FI'd will be informed in writing within 30 days of the Chief of Police's determination whether or not the photograph/FI will be retained. This does not entitle any person to any discovery or access to any law enforcement records not otherwise authorized by law.

## Automatic Vehicle Locator System Policy

### 447.1 PURPOSE AND SCOPE

The purpose of the Automatic Vehicle Locator System (AVL) is to promote greater efficiency by assisting Communications personnel with dispatching units, locating personnel in emergency situations, and providing protection for officers from false complaints.

### 447.2 SYSTEM USE

#### 447.2.1 FIELD PERSONNEL

Department field personnel assigned to a vehicle outfitted with an AVL System have the ability to utilize an enhanced mapping system with call routing information displayed on their mobile computer screen. The AVL System also has the ability to provide field personnel with their current location.

Department personnel shall not modify or change any component or software item of an AVL System installed in any designated police vehicle.

In the event that the AVL System experiences a malfunction, the problem shall be reported to the on-duty Watch Commander, when availability permits, and the vehicle shall be exchanged for one with a properly functioning AVL System.

#### 447.2.2 COMMUNICATIONS PERSONNEL

Communications personnel may utilize the AVL System to select and dispatch a patrol unit to a call for service, based on their current location. Communications personnel may utilize the AVL System to locate field personnel involved in emergencies or perceived emergency situations such as, but not limited to, pursuits, emergency button activations, or a lack of a response to radio transmissions. Communications personnel shall verify that all in-service vehicles with AVL Systems are displayed on the AVL screen in Communications, and shall notify any unit when their AVL System is not properly functioning. Notification of the failure shall also be made to the on-duty Watch Commander. Communications personnel shall not utilize the AVL System to monitor the movements of individual officers involved in routine activities.

#### 447.2.3 SUPERVISORY PERSONNEL

Supervisory personnel may utilize the AVL System to select and assign a unit to a call for service based on their location. The AVL System will not be used as a supervisory tool to arbitrarily and/or capriciously monitor the movements of field personnel.

### 447.3 AVL SYSTEM DATABASE REVIEW

The AVL System Database may only be reviewed by an investigator participating in an official department investigation, such as a personnel complaint, claims investigation, administrative inquiry, or criminal investigation. Any other review will require the express approval of the Chief of Police or his/her designee.

**Clovis Police Department**  
Clovis Police Department Policy Manual

***Automatic Vehicle Locator System Policy***

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Department personnel shall normally be notified prior to any AVL System Database review involving their assigned vehicle, unless such notice is impractical (in such a case, the employee shall be notified as soon as possible).

The only exception to the notification requirement would be if it would compromise the investigation or inquiry and approval is granted by the Chief of Police or his/her designee.

Department personnel may request a review of the AVL System Database for their assigned vehicle in order to assist in reconstructing and documenting their movement in situations such as a pursuit. This request should be made to the on-duty Watch Commander who will be responsible for authorizing the release of this data.

## Use of Audio Recorders

### 450.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio recording devices by members of this department while in the performance of their duties.

This policy does not apply to surreptitious interception of electronic communications for lawful authorized investigative purposes.

### 450.2 POLICY

The Clovis Police Department may provide members with access to audio recorders for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

### 450.3 PRIVACY

All recordings made by personnel acting in their official capacity as members of this department shall remain the property of the Department and should not be considered private, regardless of whether those recordings were made with department-issued or personally owned recorders.

### 450.4 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member who chooses to carry an audio recorder will be responsible for making sure that the recorder is in good working order. Uniformed members should wear the recorder in a conspicuous manner.

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful.

When using a recorder, the assigned member should record his/her name, employee number and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording.

### 450.5 ACTIVATION OF THE AUDIO RECORDER

Members should activate the recorder during all enforcement stops and field interrogation situations and any other time the member reasonably believes that a recording of an on-duty contact may be useful. Once started, recordings should continue without interruption until the contact ends, if feasible.

At no time is a member expected to jeopardize his/her safety in order to activate a recorder or change the recording media. However, the recorder should be activated in required situations as soon as practicable.



### *Use of Audio Recorders*

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#### **450.5.1 SURREPTITIOUS USE OF THE AUDIO RECORDER**

Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be beneficial to the investigation (Penal Code § 633).

Members shall not surreptitiously record another department member without a court order or unless lawfully authorized by the Chief of Police or the authorized designee.

#### **450.6 PROHIBITED USE OF PORTABLE RECORDERS**

Members are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Watch Commander. Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements.

Recordings shall not be used by any member for the purpose of embarrassment or ridicule.

Any member who may have questions regarding the application of this policy is encouraged to seek clarification from supervisory personnel.

#### **450.7 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an undercover officer or confidential informant.

## *Use of Audio Recorders*

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Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

### **450.8 RELEASE OF RECORDINGS**

Recordings made using portable recording devices pursuant to this policy are department records and may only be released as provided in the Release of Records and Information Policy or for other authorized legitimate department business purposes.

### **450.9 REVIEW OF RECORDED MEDIA FILES**

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shooting Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Chief of Police or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

### **450.10 RETENTION OF RECORDINGS**

Recordings of the following should be retained for a minimum of two years (Penal Code § 832.18):

- (a) Incident involving use of force by an officer
- (b) Officer-involved shootings
- (c) Incidents that lead to the detention or arrest of an individual

# Clovis Police Department

## Clovis Police Department Policy Manual

### *Use of Audio Recorders*

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- (d) Recordings relevant to a formal or informal complaint against an officer or the Clovis Police Department

Recordings containing evidence that may be relevant to a criminal prosecution should be retained for any additional period required by law for other evidence relevant to a criminal prosecution (Penal Code § 832.18).

All other recordings should be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 180 days.

Records or logs of access and deletion of recordings should be retained permanently (Penal Code § 832.18).

#### 450.10.1 RELEASE OF AUDIO/VIDEO RECORDINGS

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

## **BODY WORN CAMERA SYSTEMS**

### **452.1 PURPOSE AND SCOPE**

To provide policy and procedures for use of the Body Worn Camera system (BWC) that includes both audio and video recording of field activity in the course of official police duties.

The use of the BWC system is meant to assist officers in the performance of their duties and provide documentary evidence of incidents such as: assisting officers in accurate report writing, protecting officers from unfounded allegations of misconduct, reducing time officers spend in court, and documenting law enforcement encounters. Officers shall utilize this device in accordance with the provisions in this policy to maximize the effectiveness of the audio/video documentation to achieve operational objectives, ensure evidence integrity, and enhance the mission of the Department.

In addition, the Clovis Police Department issues another digital audio recording device that can be used when the BWC equipment is either malfunctioning or impractical to use. Officers shall comply with CPD policy section 450 regarding the use of audio recorders.

### **452.2 PRIVACY**

All recordings made by personnel acting in their official capacity as members of this department shall remain the property of the Department and should not be considered private, regardless of whether those recordings were made with department-issued or personally owned recorders.

### **452.3 PROCEDURE**

When issuing cameras, priority will be given to uniformed patrol officers. When issued a BWC, Officers shall wear it at all times when they may become involved in an enforcement situation. This includes any regular or overtime Officers are scheduled to work.

Officers may not wear a BWC unless they have completed the required department training on the use and function of the BWC.

Officers may not wear personally owned cameras to record work related activity.

Officers shall test BWC equipment prior to going into service and ensure the unit is properly charged.

Officers shall position the camera to facilitate optimum recording field of view. Axon Flex model cameras may only be worn on the shoulder, head or collar with department authorized mounting systems. The Axon Body model shall be worn on the uniform shirt or carrier vest, facing forward, between the waist area and the shoulders.

Officers shall dock their issued camera for automated upload of BWC data files daily at the end of their shift at the docking station to ensure storage capacity is not exceeded and/or to view uploaded audio/video.

## **BODY WORN CAMERA SYSTEMS**

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Officers operating take home vehicles may dock their camera at the end of their shift and then take their assigned vehicle home. It will be the responsibility of the officer to pick up their camera as soon as practical at the beginning of their next shift. It is recognized officers may make enforcement stops to and from work which may result in those stops not being recorded.

### **452.4 USE OF RECORDER**

There are many situations where the use of the BWC is appropriate. This policy is not intended to describe every possible circumstance. In addition to the required conditions, officers should activate the system any time they feel its use would be appropriate and/or valuable to document an incident.

Unless it is unsafe or impractical to do so, or mechanical issues that impede the use of the device are present, officers shall make every reasonable effort to activate their BWC cameras prior to making contact in any of the following incidents:

- (a) Field encounters that may include, but are not limited to dispatched calls, self-initiated activities, traffic stops, vehicle checks, pedestrian checks, consensual encounters or any other investigative/enforcement encounters.
- (b) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.
- (c) Officers may activate the BWC before or during any other incident at their discretion.
- (d) An officer shall have the latitude to end a recording upon completion or termination of the field encounter or contact. In most cases, the camera should remain activated and recording during the entire duration of the field encounters described above in (a). An officer is authorized to mute the BWC when confidential, sensitive, or tactical information may be recorded. When the muting function is activated, officers shall verbally indicate the reason for muting prior to activating the mute function. The mute function shall be disabled once the confidential, sensitive, or tactical information has been shared. It shall be deemed a violation of this policy for an officer to fail to activate the device or intentionally terminate a recording in order to commit a violation of law or department policy.
- (e) Officers shall not use the BWC recording functions to record any personal conversation of or between another department member or employee, or trainings and briefings without the recorded members/employee's knowledge or permission.
- (f) Officers have no obligation to advise the public that he or she is being recorded but may do so at their discretion. In cases where the public requests that they not be recorded, and the Officer agrees not to record, Officers should record their request prior to turning the camera off. When an Officer is already recording, he or she shall record their explanation prior to turning the camera off.

### **VICTIMS AND WITNESSES**

- g. Officers should generally record interviews of crime victims and witnesses. Officers have no obligation to advise a victim or witness that he or she is being recorded, but may do so at their discretion. In circumstances where victims or witnesses do not want to be recorded

## **BODY WORN CAMERA SYSTEMS**

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and the Officer agrees not to record, Officers should record their request prior to turning the camera off. When an Officer is already recording, he or she shall record their explanation prior to turning the camera off.

- (a)
  - Witnesses - In the event a crime witness or a member of the community wishes to report or discuss criminal activity anonymously, officers have the discretion to not record
  - Victims - Officers should record interviews of crime victims, unless otherwise requested by the victim. Upon request by the victim, officers have the discretion to not record the interview. Officers may offer to avert their camera to capture only audio during the interview, when doing so would facilitate obtaining the victim's recorded statement.

Unauthorized use, duplication, and/or distribution of BWC files are prohibited. Personnel shall not make copies of any BWC file for their personal use and are prohibited from using a recording device such as a phone camera or secondary video camera to record BWC files.

### **452.5 RESPONSIBILITIES**

Personnel utilizing the BWC shall be responsible for the following:

- (a) Ensuring the camera is docked daily and the battery is fully charged and operating properly.
- (b) Immediately reporting unresolved equipment malfunctions and/or problems to their supervisor
- (c) Monitoring system effectiveness and making recommendations for operational improvement and policy revision.
- (d) Documenting the use of the BWC on one of the following:
  - 1. In the police report/computer entry
    - (a) Document that the incident was captured on BWC.
    - (b) If the BWC was turned off prior to the completion of the Incident, that should also be noted in the report and the reason explained for the video termination.
  - 2. As a notation on a citation.
  - 3. On a Field Interview narrative.
- (e) Once video of evidentiary value is captured, officers shall identify BWC files by:
  - 1. When assigned, noting the CPD case number in the Case ID Field.
  - 2. Entering a title. The title should include sufficient information to identify the file, such as crime code, suspect name, location, event, etc.

## ***BODY WORN CAMERA SYSTEMS***

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3. Selecting the appropriate category(s).
4. The information may be entered via mobile device, MDC, or CPD computer work station via the EVIDENCE.COM website

### **452.5.1 COORDINATOR**

The Coordinator(s) are designated by the Chief of Police and have oversight responsibilities to include, but not limited to, the following:

- (a) Operation and user administration of the system.
- (b) System evaluation and maintenance.
- (c) Training.
- (d) Policy and procedure review and evaluation.
- (e) Coordination with IT and EVIDENCE.COM regarding system related issues.
- (f) Ensure BWC files of evidentiary value are downloaded, secure and retained per this policy.
- (g) Ensure BWC files are reviewed and released in accordance with federal, state, local statutes and City of Clovis/Clovis Police Department retention policy.
- (h) The Coordinator or designee will report unresolved deficiencies to TASER for immediate repair or replacement.

### **452.5.2 SUPERVISORY**

The supervisors responsibilities are as follows:

- (a) Supervisors will ensure officers utilize the BWC according to policy guidelines.
- (b) Supervisors are to review recordings only as directed by the Chief of Police and/or his/her designee.
- (c) Supervisors shall ensure videos related to critical incidents are uploaded to EVIDENCE.COM.
- (d) Supervisors may have the ability to immediately resolve citizen complaints by reviewing video captured by the BWC. In those circumstances where a complaint is resolved with no further action needed, supervisors shall add an additional category of citizen complaint to the video and make appropriate notes in the notes section of EVIDENCE.COM. This will allow the department to capture complaint incidents that are resolved by this camera system.
- (e) It shall be deemed a violation of this policy for a supervisor to review recordings for the sole purpose of searching for violations of department policy or law not related to a specific complaint or incident.
- (f) The supervisor shall contact the System Administrator or designee upon learning of any reported problems or malfunctions of Issued BWC equipment.

## ***BODY WORN CAMERA SYSTEMS***

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### **452.6 REVIEW OF RECORDINGS**

All access to the system is logged and subject to audit at any time. Access to the data from the system is permitted on a right to know, need to know basis. Employees authorized under this policy may review video according to the provisions of this policy.

Once uploaded to EVIDENCE.COM, personnel may view their own audio/video data. EVIDENCE.COM automatically time/date stamps and records each access by officer name. Prior to viewing any data, Officers shall document the specific reason for access on the video file page in the "NOTES" section.

An employee may review BWC files as it relates to:

- (a) Their involvement in an incident for the purposes of completing a criminal investigation and preparing official reports. Employees shall not retain personal copies of recordings. Employees should not use the fact that a video recording is available to write a less detailed report. The fact that BWC evidence exists for an incident shall be noted in the report.
- (b) Prior to courtroom testimony or for courtroom presentation.
- (c) Providing a statement pursuant to an administrative inquiry, including officer involved shooting investigations.
- (d) Critical Incidents: Officers are encouraged to consult legal representation and may review their video prior to providing a statement pursuant to an administrative inquiry.
  - 1. When safe and practical, an on scene supervisor may retrieve the BWC from the involved officer(s) at the scene. The supervisor will be responsible for assuring the camera is docked and uploaded into EVIDENCE.COM.
  - 2. Following a time sensitive critical Incident, a video may only be viewed prior to being uploaded in EVIDENCE.COM:
    - (a) When exigent circumstances occur, such as an officer being injured and to obtain identifying suspect information or other pertinent information.
    - (b) To allow investigators to view the video in order to assist in an investigation.
- (e) For potential training purposes - the BWC video in question shall be reviewed by the Chief of Police or his/her designee first, to decide whether the content of the video supports further review by others to be used for training purposes, and upon first review is not or does not appear to have the potential to become evidence of an internal affairs investigation, complaint, or other civil action. The Chief of Police or his/her designee can, at any time, refuse to allow a BWC to be used for training purposes.
- (f) Employees may also review a BWC file if they are assigned to an official investigation as it relates to a personnel complaint, Internal Affairs investigation or other administrative investigation such as:
  - 1. Use of Force review boards
  - 2. Discipline Review Boards



## **BODY WORN CAMERA SYSTEMS**

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### **3. Accident Review Boards**

- (g) In compliance with a public records request, if permitted, and in accordance with the Records release policy and state or federal laws as authorized by the Chief of Police or his/her designee.
- (h) Although the system is designed not to allow it, any tampering with or deletion of recordings is specifically prohibited.

For official use, EVIDENCE.COM shall only be accessed from Department authorized computers or devices, Department workstations or MDC's.

Exception: Administrative users of EVIDENCE.COM may access EVIDENCE.COM from a computer or device outside of the Department for the purpose of completing administrative tasks, such as locking or unlocking users, etc.

The Chief of Police has the discretion to allow viewing or release of recorded files if the Chief determines it is in the best interest of the Police Department or the City of Clovis. When appropriate, every effort will be made to notify involved employees prior to release.

### **452.7 RELEASE OF OFFICIAL VIDEO TO THIRD PARTIES**

Some video captured by the AXON camera is evidence. The release of video captured by the AXON camera to any third party will be processed in a manner consistent with Penal Code 450.15, Penal Code 841.5, Government Code 6254(f) and 6275-6276.48 applicable laws, current discovery request practices and the provisions of **Policy §810**. In General, video captured by the AXON camera shall not be released to third parties unless expressly authorized by the Chief of Police, or designee. In rare circumstances, the Chief of Police may elect to release video when the public interest served by the disclosure of the video outweighs the public interest served by the non-disclosure of the video.

When considering whether disclosure is warranted, the Chief of Police (or designee) should also consider the privacy rights and impacts of the disclosure on the involved individual member(s).

Should the Chief of Police determine that disclosure is necessary, he/she should provide as much advance notice as practical to those involved member(s).

When video(s) have been authorized for release to a third party other than the District Attorney's office, the system coordinator, or his designee, should review the video and assess if redaction is necessary based on incident type or privacy laws.

A copy of the Clovis Police Department BWC policy has been posted to the department website: <https://www.cl.clovis.ca.us/Departments-Services/Police-Department>

When criminal charges are being sought in a case, all related recordings will be provide to the District Attorney's (DA's) office securely using AXON's evidence.com software.

## ***BODY WORN CAMERA SYSTEMS***

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### **452.7.1 REQUEST FOR DELETION OF ACCIDENTAL RECORDING**

#### **Request for Deletion of Accidental Recording**

- (a) In the event of an accidental activation of the BWC where the resulting recording is of no investigative or evidentiary value, the recording employee may request that the BWC file be deleted by submitting an email request with sufficient information to locate the BWC file to the Operation Division Commander or designee who shall review the file, approve or deny the request, and forward to the System Administrator for action.

### **452.7.2 COPYING PROCEDURES**

- (a) A copy of the BWC file may be made by the involved officer in accordance with the provisions of this policy for evidence.
- (b) If the video is in fact evidence to a case, the officer may make a copy of the video for court appearances if necessary such as a request by the District Attorney.
- (c) A copy of the BWC file may be made for training purposes if authorized by the Chief of Police or his/her designee pursuant to section 452.6 (c) 5 of this policy.
- (d) Other than as provided in this policy, no member of this Department shall download any video from EVIDENCE.COM onto any computer, device, drive, CD, DVD or any other format without the express consent of the Chief of Police.

### **452.7.3 USE OF BWC FILES FOR CRIMINAL OR INTERNAL INVESTIGATIONS**

#### **Investigators conducting criminal or internal investigations shall:**

- (a) Advise the System Administrator to restrict access/public disclosure of the BWC file in criminal or internal investigations, when necessary.
- (b) Document the reason for access by entering the related Citizen Complaint or IA Case number on the BWC "NOTES" field prior to viewing.
- (c) Review the file to determine whether the BWC file is of evidentiary value and process in accordance with established procedures.
- (d) Notify the System Administrator to remove the access restriction when the investigation is closed.

### **452.7.4 USE OF BWC FILES FOR TRAINING PURPOSES**

- (a) A BWC file may be utilized as a training tool for individuals, specific units, and the Department as a whole. A recommendation to utilize a BWC file for such purpose may come from any source
- (b) A person recommending utilization of a BWC file for training purposes shall submit therecommendation through the chain of command to the Chief of Police or his designee.
- (c) If an involved officer or employee objects to the showing of a recording, his/her objection will be submitted to the Chief of Police or his designee to determine if the employee's objection outweighs the training value.

## **BODY WORN CAMERA SYSTEMS**

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- (d) After a meeting with the affected employee and his/or chosen representative, the Chief of Police or designee shall review the recommendation and determine how best to utilize the BWC file considering the identity of the person(s) involved, sensitivity of the incident, and the benefit of utilizing the file versus other means (e.g. policy, Training Bulletin, Officer Safety Bulletin, briefing or other training – also see section 452.6 (c)5).

### **452.8 CATEGORY AND RETENTION**

Employees utilizing the BWC shall identify each video by category. In the event a video is taken that does not fall into a listed category and has no apparent evidentiary or administrative value, the officer may leave the video as uncategorized. Retention periods are established by the Chief of Police in accordance with state and federal mandates. Categories are selected based on the statutory retention requirements for the incident, and range from one year to an indefinite period of time. The following are approved identifying categories:

- - Call for Service-No Crime
  - Citizen Contact
  - Traffic Accident
  - Traffic Stop/Ped Check
  - Misdemeanor Arrest
  - Misdemeanor Investigation-No Arrest
  - Felony Arrest
  - Felony Investigation-No Arrest
  - Sex Crime
  - Use of Force
  - Officer Injury
  - Homicide/Death Investigation
  - Training
  - Other/Accidental Activation
  - Citizen Complaint / I.A.

### **452.9 AUDIT RESPONSIBILITIES**

The system coordinator, or his or her designee, will conduct periodic, random audits to ensure the AXON camera system is operating properly and the camera is being utilized in accordance with this policy.

Minor infractions, which do not demonstrate a pattern or practice of misconduct, regarding the use of AXON cameras and related equipment, should be viewed as training opportunities rather than a means to take disciplinary action.

## **Bicycle Patrol Unit**

### **454.1 PURPOSE AND SCOPE**

The Clovis Police Department has established the Bicycle Patrol Unit (BPU) for the purpose of enhancing patrol efforts in the community. Bicycle patrol has been shown to be an effective way to increase officer visibility in congested areas and their quiet operation can provide a tactical approach to crimes in progress. The purpose of this policy is to provide guidelines for the safe and effective operation of the patrol bicycle.

### **454.2 POLICY**

Patrol bicycles may be used for regular patrol duty, traffic enforcement, parking control, tactical operations, selective enforcement details and special events. The use of the patrol bicycle will emphasize their mobility and visibility to the community.

Bicycles may be deployed to any area at all hours of the day or night, according to Department needs and as staffing levels allow.

Requests for specific deployment of bicycle patrol officers shall be coordinated through the Bicycle Patrol Unit supervisor or the Watch Commander.

### **454.3 SELECTION OF PERSONNEL**

Interested sworn personnel, who are off probation, shall submit a change of assignment request to their appropriate Division Commander. A copy will be forwarded to the BPU supervisor. Qualified applicants will then be invited to an oral interview. Interested personnel shall be evaluated by the following criteria:

- (a) Recognized competence and ability as evidenced by performance.
- (b) Special skills or training as it pertains to the assignment.
- (c) Good physical condition.
- (d) Willingness to perform duties using the bicycle as a mode of transportation.

#### **454.3.1 BICYCLE PATROL UNIT SUPERVISOR**

The Bicycle Patrol Unit supervisor will be selected from the rank of sergeant by the Enforcement Division Commander or his/her designee.

The Bicycle Patrol Unit supervisor shall have responsibility for the following:

- (a) Organizing bicycle patrol training.
- (b) Inspecting and maintaining inventory of patrol bicycles and program equipment.
- (c) Scheduling maintenance and repairs.
- (d) Evaluating performance of bicycle officers.
- (e) Coordinating activities with the Enforcement Division.

## *Bicycle Patrol Unit*

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- (f) Other activities as required to maintain the efficient operation of the Bicycle Patrol Unit.

### The Bicycle Unit Corporal:

The corporal is expected to act in the capacity of a sergeant, performing supervisory responsibilities in the absence of, or at the direction of, the sergeant. The corporal is expected to perform field supervision of bicycle patrol activities, supervise and personally perform investigative work when riding a bicycle. The corporal will also coordinate activities with the enforcement division. The corporal will inspect and maintain inventory of patrol bicycles and program equipment. The corporal will schedule and keep records of bicycle patrol details. The corporal will serve as a leader on the bicycle patrol details, provide guidance, motivation, mentoring, and assistance to other officers, in the absence of the sergeant.

### **454.4 TRAINING**

Participants in the program must complete an initial Department approved bicycle-training course after acceptance into the program. Thereafter bicycle patrol officers should receive yearly in-service training to improve skills and refresh safety, health and operational procedures. The initial training shall minimally include the following:

- Bicycle patrol strategies.
- Bicycle safety and accident prevention.
- Operational tactics using bicycles.

Bicycle patrol officers will be required to qualify with their duty firearm while wearing bicycle safety equipment including the helmet and riding gloves.

### **454.5 UNIFORMS AND EQUIPMENT**

Bicycles officers shall wear the departmentally approved uniform and safety equipment while operating the police bicycle. Safety equipment includes departmentally approved helmet, riding gloves, protective eyewear and approved footwear. Soft body armor/vest is required.

The bicycle uniform will consist of a department approved shirt and shorts.

Optional equipment includes jacket and windbreaker in colder weather; turtleneck shirts or sweaters are permitted when worn under the uniform shirt, radio head set and microphone.

Bicycle officers shall carry the same equipment on the bicycle patrol duty belt as they would on a regular patrol assignment.

Each bicycle will be stocked uniformly with necessary forms, and other needed equipment to keep available while on bike patrol such as: a rear rack and/or saddle bag(s) sufficient to carry all necessary equipment to handle routine patrol calls including report writing, vehicle storage and citations. Each bicycle gear bag shall include a tire pump, repair tool, and tire tube. These items are to remain with/on the bicycle at all times.

### *Bicycle Patrol Unit*

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#### **454.6 CARE AND USE OF PATROL BICYCLES**

Officers will be assigned a specially marked and equipped patrol bicycle, attached gear bag, two batteries and a charger.

Bicycles utilized for uniformed bicycle patrol shall have a "POLICE" decal prominently displayed. Every such bicycle shall be equipped with front and rear reflectors front lights and a siren/horn satisfying the requirements of Vehicle Code §2800.1(b).

Each bicycle shall be equipped with a steady or flashing blue warning light that is visible from the front, sides, or rear of the bicycle. (Vehicle Code § 21201.3)

Bicycle officers shall conduct an inspection of the bicycle and equipment prior to use to insure proper working order of the equipment. Officers are responsible for the routine care and maintenance of their assigned equipment (e.g., tire pressure, chain lubrication, overall cleaning).

If a needed repair is beyond the ability of the bicycle officer, a repair work order will be completed and forwarded to the program supervisor for repair by an approved technician.

Each bicycle will have scheduled maintenance yearly to be performed by a department approved repair shop/technician.

At the end of a bicycle assignment, the bicycle shall be returned clean and ready for the next tour of duty.

Officers shall not modify the patrol bicycle, remove, modify or add components except with the expressed approval of the bicycle supervisor, or in the event of an emergency.

Vehicle bicycle racks are available should the officer need to transport the patrol bicycle. Due to possible component damage, transportation of the patrol bicycle in a trunk or on a patrol car push-bumper is discouraged.

Bicycles shall be properly secured when not in the officer's immediate presence.

#### **454.7 OFFICER RESPONSIBILITY**

Officers must operate the bicycle in compliance with the vehicle code under normal operation. Officers may operate the bicycle without lighting equipment during hours of darkness when such operation reasonably appears necessary for officer safety and tactical considerations. Officers must use caution and care when operating the bicycle without lighting equipment.

Officers are exempt from the rules of the road under the following conditions (Vehicle Code § 21200(b)(1)):

- (a) In response to an emergency call.
- (b) While engaged in rescue operations.
- (c) In the immediate pursuit of an actual or suspected violator of the law.

## Foot Pursuits

### 458.1 PURPOSE AND SCOPE

This policy provides guidelines to assist officers in making the decision to initiate or continue the pursuit of suspects on foot.

#### 458.1.1 POLICY

It is the policy of this department when deciding to initiate or continue a foot pursuit that officers must continuously balance the objective of apprehending the suspect with the risk and potential for injury to department personnel, the public or the suspect.

Officers are expected to act reasonably, based on the totality of the circumstances. Absent exigent circumstances, the safety of department personnel and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Officers must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and department personnel.

### 458.2 DECISION TO PURSUE

The safety of department members and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Officers must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and department members.

Officers may be justified in initiating a foot pursuit of any individual the officer reasonably believes is about to engage in, is engaging in or has engaged in criminal activity. The decision to initiate or continue such a foot pursuit, however, must be continuously re-evaluated in light of the circumstances presented at the time.

Mere flight by a person who is not suspected of criminal activity shall not serve as justification for engaging in an extended foot pursuit without the development of reasonable suspicion regarding the individual's involvement in criminal activity or being wanted by law enforcement.

Deciding to initiate or continue a foot pursuit is a decision that an officer must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits may place department members and the public at significant risk. Therefore, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a foot pursuit because of the perceived risk involved.

If circumstances permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, an officer should continuously consider reasonable alternatives to a foot pursuit based upon the circumstances and resources available, such as:

- (a) Containment of the area.

## *Foot Pursuits*

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- (b) Saturation of the area with law enforcement personnel, including assistance from other agencies.
- (c) A canine search.
- (d) Thermal imaging or other sensing technology.
- (e) Air support.
- (f) Apprehension at another time when the identity of the suspect is known or there is information available that would likely allow for later apprehension, and the need to immediately apprehend the suspect does not reasonably appear to outweigh the risk of continuing the foot pursuit.

### **458.3 GENERAL GUIDELINES**

When reasonably practicable, officers should consider alternatives to engaging in or continuing a foot pursuit when:

- (a) Directed by a supervisor to terminate the foot pursuit; such an order shall be considered mandatory
- (b) The officer is acting alone.
- (c) Two or more officers become separated, lose visual contact with one another, or obstacles separate them to the degree that they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single officer keep the suspect in sight from a safe distance and coordinate the containment effort.
- (d) The officer is unsure of his/her location and direction of travel.
- (e) The officer is pursuing multiple suspects and it is not reasonable to believe that the officer would be able to control the suspect should a confrontation occur.
- (f) The physical condition of the officer renders him/her incapable of controlling the suspect if apprehended.
- (g) The officer loses radio contact with the dispatcher or with assisting or backup officers.
- (h) The suspect enters a building, structure, confined space, isolated area or dense or difficult terrain, and there are insufficient officers to provide backup and containment. The primary officer should consider discontinuing the foot pursuit and coordinating containment pending the arrival of sufficient resources.
- (i) The officer becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to officers or the public.
- (j) The officer reasonably believes that the danger to the pursuing officers or public outweighs the objective of immediate apprehension.
- (k) The officer loses possession of his/her firearm or other essential equipment.



## ***Foot Pursuits***

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- (l) The officer or a third party is injured during the pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.
- (m) The suspect's location is no longer definitely known.
- (n) The identity of the suspect is established or other information exists that will allow for the suspect's apprehension at a later time, and it reasonably appears that there is no immediate threat to department members or the public if the suspect is not immediately apprehended.
- (o) The officer's ability to safely continue the pursuit is impaired by inclement weather, darkness or other environmental conditions.

### **458.4 RESPONSIBILITIES IN FOOT PURSUITS**

#### **458.4.1 INITIATING OFFICER RESPONSIBILITIES**

Unless relieved by another officer or a supervisor, the initiating officer shall be responsible for coordinating the progress of the pursuit. When acting alone and when practicable, the initiating officer should not attempt to overtake and confront the suspect but should attempt to keep the suspect in sight until sufficient officers are present to safely apprehend the suspect.

Early communication of available information from the involved officers is essential so that adequate resources can be coordinated and deployed to bring a foot pursuit to a safe conclusion. Officers initiating a foot pursuit should, at a minimum, broadcast the following information as soon as it becomes practicable and available:

- (a) Location and direction of travel
- (b) Call sign identifier
- (c) Reason for the foot pursuit, such as the crime classification
- (d) Number of suspects and description, to include name if known
- (e) Whether the suspect is known or believed to be armed with a dangerous weapon

Officers should be mindful that radio transmissions made while running may be difficult to understand and may need to be repeated.

Absent extenuating circumstances, any officer unable to promptly and effectively broadcast this information should terminate the foot pursuit. If the foot pursuit is discontinued for any reason, immediate efforts for containment should be established and alternatives considered based upon the circumstances and available resources.

When a foot pursuit terminates, the officer will notify the dispatcher of his/her location and the status of the pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct further actions as reasonably appear necessary, to include requesting medical aid as needed for officers, suspects or members of the public.

## *Foot Pursuits*

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### **458.4.2 ASSISTING OFFICER RESPONSIBILITIES**

Whenever any officer announces that he/she is engaged in a foot pursuit, all other officers should minimize non-essential radio traffic to permit the involved officers maximum access to the radio frequency.

### **458.4.3 SUPERVISOR RESPONSIBILITIES**

Upon becoming aware of a foot pursuit, the supervisor shall make every reasonable effort to ascertain sufficient information to direct responding resources and to take command, control and coordination of the foot pursuit. The supervisor should respond to the area whenever possible; the supervisor does not, however, need not be physically present to exercise control over the foot pursuit. The supervisor shall continuously assess the situation in order to ensure the foot pursuit is conducted within established department guidelines.

The supervisor shall terminate the foot pursuit when the danger to pursuing officers or the public appears to unreasonably outweigh the objective of immediate apprehension of the suspect.

Upon apprehension of the suspect, the supervisor shall promptly proceed to the termination point to direct the post-foot pursuit activity.

### **458.4.4 COMMUNICATIONS RESPONSIBILITIES**

Upon notification or becoming aware that a foot pursuit is in progress, the dispatcher is responsible for:

- (a) Clearing the radio channel of non-emergency traffic.
- (b) Coordinating pursuit communications of the involved officers.
- (c) Broadcasting pursuit updates as well as other pertinent information as necessary.
- (d) Ensuring that a field supervisor is notified of the foot pursuit.
- (e) Notifying and coordinating with other involved or affected agencies as practicable.
- (f) Notifying the Watch Commander as soon as practicable.
- (g) Assigning an incident number and logging all pursuit activities.

### **458.5 REPORTING REQUIREMENTS**

The initiating officer shall complete appropriate crime/arrest reports documenting, at minimum:

- (a) Date and time of the foot pursuit.
- (b) Initial reason and circumstances surrounding the foot pursuit.
- (c) Course and approximate distance of the foot pursuit.
- (d) Alleged offenses.
- (e) Involved vehicles and officers.
- (f) Whether a suspect was apprehended as well as the means and methods used.

# Clovis Police Department

## Clovis Police Department Policy Manual

### *Foot Pursuits*

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1. Any use of force shall be reported and documented in compliance with the Use of Force Policy.
  - (g) Arrestee information, if applicable.
  - (h) Any injuries and/or medical treatment.
  - (i) Any property or equipment damage.
  - (j) Name of the supervisor at the scene or who handled the incident.

Assisting officers taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

The supervisor reviewing the report will make a preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted.

In any case in which a suspect is not apprehended and there is insufficient information to support further investigation, a supervisor may authorize that the initiating officer need not complete a formal report.

#### **458.6 POLICY**

It is the policy of this department that officers, when deciding to initiate or continue a foot pursuit, continuously balance the objective of apprehending the suspect with the risk and potential for injury to department members, the public or the suspect.

Officers are expected to act reasonably, based on the totality of the circumstances.

## Automated License Plate Readers (ALPRs)

### 462.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

### 462.2 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Clovis Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Administration Division Commander. The Administration Division Commander will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

#### 462.2.1 ALPR ADMINISTRATOR

The Administration Division Commander shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.
- (g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

### 462.3 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.

### ***Automated License Plate Readers (ALPRs)***

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- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

#### **462.4 DATA COLLECTION AND RETENTION**

The Administration Division Commander is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

#### **462.5 ACCOUNTABILITY**

All data will be closely safeguarded and protected by both procedural and technological means. The Clovis Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

### ***Automated License Plate Readers (ALPRs)***

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- (c) ALPR system audits should be conducted on a regular basis.

For security or data breaches, see the Records Release and Maintenance Policy.

#### **462.6 POLICY**

The policy of the Clovis Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

#### **462.7 RELEASING ALPR DATA**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
  - 1. The name of the agency.
  - 2. The name of the person requesting.
  - 3. The intended purpose of obtaining the information.
- (b) The request is reviewed by the Administration Division Commander or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

#### **462.8 TRAINING**

The Training Coordinator should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

## **Homeless Persons**

### **464.1 PURPOSE AND SCOPE**

The purpose of this policy is to ensure that personnel understand the needs and rights of the homeless and to establish procedures to guide officers during all contacts with the homeless, whether consensual or for enforcement purposes. The Clovis Police Department recognizes that members of the homeless community are often in need of special protection and services. The Clovis Police Department will address these needs in balance with the overall mission of this department. Therefore, officers will consider the following when serving the homeless community.

#### **464.1.1 POLICY**

It is the policy of the Clovis Police Department to provide law enforcement services to all members of the community, while protecting the rights, dignity and private property of the homeless. Homelessness is not a crime and members of this department will not use homelessness solely as a basis for detention or law enforcement action.

### **464.2 HOMELESS COMMUNITY LIAISON**

The Chief of Police will designate a member of this department to act as the Homeless Liaison Officer. The responsibilities of the Homeless Liaison Officer include the following:

- (a) Maintain and make available to all department employees a list of assistance programs and other resources that are available to the homeless.
- (b) Meet with social services and representatives of other organizations that render assistance to the homeless.
- (c) Maintain a list of the areas within and near this jurisdiction that are used as frequent homeless encampments.
- (d) Remain abreast of laws dealing with the removal and/or destruction of the personal property of the homeless. This will include:
  - 1. Proper posting of notices of trespass and clean-up operations.
  - 2. Proper retention of property after clean-up, to include procedures for owners to reclaim their property in accordance with the Property and Evidence Policy and other established procedures.
- (e) Be present during any clean-up operation conducted by this department involving the removal of personal property of the homeless to ensure that the rights of the homeless are not violated.
- (f) Develop training to assist officers in understanding current legal and social issues relating to the homeless.

### *Homeless Persons*

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#### **464.3 FIELD CONTACTS**

Officers are encouraged to contact the homeless for purposes of rendering aid, support and for community-oriented policing purposes. Nothing in this policy is meant to dissuade an officer from taking reasonable enforcement action when facts support a reasonable suspicion of criminal activity. However, when encountering a homeless person who has committed a non-violent misdemeanor and continued freedom is not likely to result in a continuation of the offense or a breach of the peace, officers are encouraged to consider long-term solutions to problems that may relate to the homeless, such as shelter referrals and counseling in lieu of physical arrest.

Officers should provide homeless persons with resource and assistance information whenever it is reasonably apparent that such services may be appropriate.

##### **464.3.1 OTHER CONSIDERATIONS**

Homeless members of the community will receive the same level and quality of service provided to other members of the community. The fact that a victim or witness is homeless can, however, require special considerations for a successful investigation and prosecution. Officers should consider the following when handling investigations involving homeless victims, witnesses or suspects:

- (a) Document alternate contact information. This may include obtaining addresses and phone numbers of relatives and friends.
- (b) Document places the homeless person may frequent.
- (c) Provide homeless victims with victim/witness resources when appropriate.
- (d) Obtain statements from all available witnesses in the event that a homeless victim is unavailable for a court appearance.
- (e) Consider whether the person may be a dependent adult or elder, and if so, proceed in accordance with the Adult Abuse Policy.
- (f) Arrange for transportation for investigation-related matters, such as medical exams and court appearances.
- (g) Consider whether a crime should be reported and submitted for prosecution, even when a homeless victim indicates that he/she does not desire prosecution.

#### **464.4 PERSONAL PROPERTY**

The personal property of homeless persons must not be treated differently than the property of other members of the public. Officers should use reasonable care when handling, collecting and retaining the personal property of homeless persons and should not destroy or discard the personal property of a homeless person.

When a homeless person is arrested or otherwise removed from a public place, officers should make reasonable accommodations to permit the person to lawfully secure his/her personal property. Otherwise, the personal property should be collected for safekeeping. If the arrestee has more personal property than can reasonably be collected and transported by the officer, a



## *Homeless Persons*

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supervisor should be consulted. The property should be photographed and measures should be taken to remove or secure the property. It will be the supervisor's responsibility to coordinate the removal and safekeeping of the property.

Officers should not conduct or assist in clean-up operations of belongings that reasonably appear to be the property of homeless persons without the prior authorization of a supervisor or the department Homeless Liaison Officer. When practicable, requests by the public for clean-up of a homeless encampment should be referred to the Homeless Liaison Officer.

Officers who encounter unattended encampments, bedding or other personal property in public areas that reasonably appears to belong to a homeless person should not remove or destroy such property and should inform the department Homeless Liaison Officer if such property appears to involve a trespass, blight to the community or is the subject of a complaint. It will be the responsibility of the Homeless Liaison Officer to address the matter in a timely fashion.

### **464.5 MENTAL ILLNESS AND MENTAL IMPAIRMENT**

Some homeless persons may suffer from a mental illness or a mental impairment. Officers shall not detain a homeless person under a mental illness commitment unless facts and circumstances warrant such a detention (See Policy § 418).

When a mental illness hold is not warranted, the contacting officer should provide the homeless person with contact information for mental health assistance as appropriate. In these circumstances, officers may provide transportation to a mental health specialist if requested by the person and approved by a supervisor.

### **464.6 ECOLOGICAL ISSUES**

Sometimes homeless encampments can impact the ecology and natural resources of the community and may involve criminal offenses beyond mere littering. Officers are encouraged to notify other appropriate agencies or departments when a significant impact to the environment has or is likely to occur. Significant impacts to the environment may warrant a crime report, investigation, supporting photographs and supervisor notification.

## **Crisis Intervention Incidents**

### **465.1 PURPOSE AND SCOPE**

This policy provides guidelines for interacting with those who may be experiencing a mental health or emotional crisis. Interaction with such individuals has the potential for miscommunication and violence. It often requires an officer to make difficult judgments about a person's mental state and intent in order to effectively and legally interact with the individual.

#### **465.1.1 DEFINITIONS**

Definitions related to this policy include:

**Person in crisis** - A person whose level of distress or mental health symptoms have exceeded the person's internal ability to manage his/her behavior or emotions. A crisis can be precipitated by any number of things, including an increase in the symptoms of mental illness despite treatment compliance; non-compliance with treatment, including a failure to take prescribed medications appropriately; or any other circumstance or event that causes the person to engage in erratic, disruptive or dangerous behavior that may be accompanied by impaired judgment.

### **465.2 POLICY**

The Clovis Police Department is committed to providing a consistently high level of service to all members of the community and recognizes that persons in crisis may benefit from intervention. The Department will collaborate, where feasible, with mental health professionals to develop an overall intervention strategy to guide its members' interactions with those experiencing a mental health crisis. This is to ensure equitable and safe treatment of all involved.

### **465.3 SIGNS**

Members should be alert to any of the following possible signs of mental health issues or crises:

- (a) A known history of mental illness
- (b) Threats of or attempted suicide
- (c) Loss of memory
- (d) Incoherence, disorientation or slow response
- (e) Delusions, hallucinations, perceptions unrelated to reality or grandiose ideas
- (f) Depression, pronounced feelings of hopelessness or uselessness, extreme sadness or guilt
- (g) Social withdrawal
- (h) Manic or impulsive behavior, extreme agitation, lack of control
- (i) Lack of fear
- (j) Anxiety, aggression, rigidity, inflexibility or paranoia

### ***Crisis Intervention Incidents***

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Members should be aware that this list is not exhaustive. The presence or absence of any of these should not be treated as proof of the presence or absence of a mental health issue or crisis.

#### **465.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS**

The Chief of Police should designate an appropriate Division Commander to collaborate with mental health professionals to develop an education and response protocol. It should include a list of community resources, to guide department interaction with those who may be suffering from mental illness or who appear to be in a mental health crisis.

#### **465.5 FIRST RESPONDERS**

Safety is a priority for first responders. It is important to recognize that individuals under the influence of alcohol, drugs or both may exhibit symptoms that are similar to those of a person in a mental health crisis. These individuals may still present a serious threat to officers; such a threat should be addressed with reasonable tactics. Nothing in this policy shall be construed to limit an officer's authority to use reasonable force when interacting with a person in crisis.

Officers are reminded that mental health issues, mental health crises and unusual behavior alone are not criminal offenses. Individuals may benefit from treatment as opposed to incarceration.

An officer responding to a call involving a person in crisis should:

- (a) Promptly assess the situation independent of reported information and make a preliminary determination regarding whether a mental health crisis may be a factor.
- (b) Request available backup officers and specialized resources as deemed necessary and, if it is reasonably believed that the person is in a crisis situation, use conflict resolution and de-escalation techniques to stabilize the incident as appropriate.
- (c) If feasible, and without compromising safety, turn off flashing lights, bright lights or sirens.
- (d) Attempt to determine if weapons are present or available.
  - 1. Prior to making contact, and whenever possible and reasonable, conduct a search of the Department of Justice Automated Firearms System via the California Law Enforcement Telecommunications System (CLETS) to determine whether the person is the registered owner of a firearm (Penal Code § 11106.4).
- (e) Take into account the person's mental and emotional state and potential inability to understand commands or to appreciate the consequences of his/her action or inaction, as perceived by the officer.
- (f) Secure the scene and clear the immediate area as necessary.
- (g) Employ tactics to preserve the safety of all participants.
- (h) Determine the nature of any crime.
- (i) Request a supervisor, as warranted.
- (j) Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions.

## *Crisis Intervention Incidents*

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- (k) If circumstances reasonably permit, consider and employ alternatives to force.

### **465.6 DE-ESCALATION**

Officers should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis.

Once it is determined that a situation is a mental health crisis and immediate safety concerns have been addressed, responding members should be aware of the following considerations and should generally:

- Evaluate safety conditions.
- Introduce themselves and attempt to obtain the person's name.
- Be patient, polite, calm, courteous and avoid overreacting.
- Speak and move slowly and in a non-threatening manner.
- Moderate the level of direct eye contact.
- Remove distractions or disruptive people from the area.
- Demonstrate active listening skills (e.g., summarize the person's verbal communication).
- Provide for sufficient avenues of retreat or escape should the situation become volatile.

Responding officers generally should not:

- Use stances or tactics that can be interpreted as aggressive.
- Allow others to interrupt or engage the person.
- Corner a person who is not believed to be armed, violent or suicidal.
- Argue, speak with a raised voice or use threats to obtain compliance.

### **465.7 INCIDENT ORIENTATION**

When responding to an incident that may involve mental illness or a mental health crisis, the officer should request that the dispatcher provide critical information as it becomes available. This includes:

- (a) Whether the person relies on drugs or medication, or may have failed to take his/her medication.
- (b) Whether there have been prior incidents, suicide threats/attempts, and whether there has been previous police response.
- (c) Contact information for a treating physician or mental health professional.

Additional resources and a supervisor should be requested as warranted.

## *Crisis Intervention Incidents*

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### **465.8 SUPERVISOR RESPONSIBILITIES**

A supervisor should respond to the scene of any interaction with a person in crisis. Responding supervisors should:

- (a) Attempt to secure appropriate and sufficient resources.
- (b) Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).
- (c) Consider strategic disengagement. Absent an imminent threat to the public and, as circumstances dictate, this may include removing or reducing law enforcement resources or engaging in passive monitoring.
- (d) Ensure that all reports are completed and that incident documentation uses appropriate terminology and language.
- (e) Conduct an after-action tactical and operational debriefing, and prepare an after-action evaluation of the incident to be forwarded to the Division Commander.

Evaluate whether a critical incident stress management debriefing for involved members is warranted.

### **465.9 INCIDENT REPORTING**

Members engaging in any oral or written communication associated with a mental health crisis should be mindful of the sensitive nature of such communications and should exercise appropriate discretion when referring to or describing persons and circumstances.

Members having contact with a person in crisis should keep related information confidential, except to the extent that revealing information is necessary to conform to department reporting procedures or other official mental health or medical proceedings.

#### **465.9.1 DIVERSION**

Individuals who are not being arrested should be processed in accordance with the Mental Illness Commitments Policy.

### **465.10 NON-SWORN INTERACTION WITH PEOPLE IN CRISIS**

Non-sworn members may be required to interact with persons in crisis in an administrative capacity, such as dispatching, records request, and animal control issues.

- (a) Members should treat all individuals equally and with dignity and respect.
- (b) If a member believes that he/she is interacting with a person in crisis, he/she should proceed patiently and in a calm manner.
- (c) Members should be aware and understand that the person may make unusual or bizarre claims or requests.

If a person's behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person

### ***Crisis Intervention Incidents***

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may be harmful to him/herself or others, an officer should be promptly summoned to provide assistance.

#### **465.11 EVALUATION**

The Division Commander designated to coordinate the crisis intervention strategy for this department should ensure that a thorough review and analysis of the department response to these incidents is conducted annually. The report will not include identifying information pertaining to any involved individuals, officers or incidents and will be submitted to the Chief of Police through the chain of command.

#### **465.12 TRAINING**

In coordination with the mental health community and appropriate stakeholders, the Department will develop and provide comprehensive education and training to all department members to enable them to effectively interact with persons in crisis.

This department will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, welfare checks and crisis intervention (Penal Code § 11106.4; Penal Code § 13515.25; Penal Code § 13515.27; Penal Code § 13515.30).

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# ADMINISTRATION OF OPIOID OVERDOSE MEDICATION

## 467.1 PURPOSE AND SCOPE

This policy recognizes that members may encounter persons who appear to be in need of medical aid in response to an opioid overdose and establishes a law enforcement response to such situations.

## 467.2 POLICY

It is the policy of the Clovis Police Department that all officers be trained to administer opioid overdose medication

## 467.3 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION

Trained members may administer opioid overdose medication (Civil Code § 1714.22; Business and Professions Code § 4119.9).

### 467.3.1 OPIOID OVERDOSE MEDICATION USER RESPONSIBILITIES

Members who are qualified to administer opioid overdose medication, such as naloxone, should handle, store and administer the medication consistent with their training. Members should check the medication and associated administration equipment at the beginning of their shift to ensure they are serviceable and not expired. Any expired medication or unserviceable administration equipment should be removed from service and given to the Training Coordinator.

Any member who administers an opioid overdose medication should contact Communications as soon as possible and request response by EMS.

### 467.3.2 OPIOID OVERDOSE MEDICATION REPORTING

Any member administering opioid overdose medication should detail its use in an appropriate report.

The Training Coordinator will ensure that the Records Supervisor is provided enough information to meet applicable state reporting requirements.

### 467.3.3 OPIOID OVERDOSE MEDICATION TRAINING

The Training Coordinator should ensure initial and refresher training is provided to members authorized to administer opioid overdose medication. Training should be coordinated with the local health department and comply with the requirements in 22 CCR 100019 and any applicable POST standards (Civil Code § 1714.22).

### 467.3.4 DESTRUCTION OF OPIOID OVERDOSE MEDICATION

The Training Coordinator shall ensure the destruction of any expired opioid overdose medication (Business and Professions Code § 4119.9).

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***ADMINISTRATION OF OPIOID OVERDOSE MEDICATION***

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**467.3.5 OPIOID OVERDOSE MEDICATION RECORD MANAGEMENT**

Records regarding acquisition and disposition of opioid overdose medications shall be maintained and retained in accordance with the established records retention schedule and at a minimum of three years from the date the record was created (Business and Professions Code § 4119.9).



## **Chapter 5 - Traffic Operations**

## Traffic Function and Responsibility

### 500.1 PURPOSE AND SCOPE

The ultimate goal of traffic law enforcement is to reduce traffic collisions. This may be achieved through the application of such techniques as geographic/temporal assignment of personnel and equipment and the establishment of preventive patrols to deal with specific categories of unlawful driving behavior. Traffic enforcement techniques are based on accident data, enforcement activity records, traffic volume, and traffic conditions. This department provides enforcement efforts toward violations, not only in proportion to the frequency of their occurrence in accident situations, but also in terms of traffic-related needs.

### 500.2 TRAFFIC OFFICER DEPLOYMENT

Several factors are considered in the development of deployment schedules for officers of the Clovis Police Department. Information provided by the California Statewide Integrated Traffic Reporting System (SWITRS) is a valuable resource for traffic accident occurrences and therefore officer deployment. Some of the factors for analysis include:

- Location
- Time
- Day
- Violation factors

All officers assigned to patrol or traffic enforcement functions will emphasize enforcement of accident causing violations during high accident hours and at locations of occurrence. All officers will take directed enforcement action on request, and random enforcement action when appropriate against violators as a matter of routine. All officers shall maintain high visibility while working general enforcement, especially at high accident locations.

Other factors to be considered for deployment are requests from the public, construction zones or special events.

### 500.3 ENFORCEMENT

Enforcement actions are commensurate with applicable laws and take into account the degree and severity of the violation committed. This department does not establish ticket quotas and the number of arrests or citations issued by any officer shall not be used as the sole criterion for evaluating officer overall performance (Vehicle Code § 41603). The visibility and quality of an officer's work effort will be commensurate with the philosophy of this policy. Several methods are effective in the reduction of collisions:

## *Traffic Function and Responsibility*

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### **500.3.1 WARNINGS**

Warnings or other non-punitive enforcement actions should be considered in each situation and substituted for arrests or citations when circumstances warrant, especially in the case of inadvertent violations.

### **500.3.2 CITATIONS**

Citations may be issued when an officer believes it is appropriate. It is essential that officers fully explain the rights and requirements imposed on motorists upon issuance of a citation for a traffic violation. Officers should provide the following information at a minimum:

- (a) Explanation of the violation or charge
- (b) Court appearance procedure including the optional or mandatory appearance by the motorist
- (c) Notice of whether the motorist can enter a plea and pay the fine by mail or at the court

### **500.3.3 PHYSICAL ARREST**

Physical arrest can be made on a number of criminal traffic offenses outlined in the Vehicle Code or Penal Code. These physical arrest cases usually deal with, but are not limited to:

- (a) Vehicular manslaughter
- (b) Felony and misdemeanor driving under the Influence of alcohol/drugs
- (c) Felony or misdemeanor hit-and-run
- (d) Refusal to sign notice to appear
- (e) Any other misdemeanor at the discretion of the officer, such as reckless driving with extenuating circumstances

### **500.4 SUSPENDED OR REVOKED DRIVERS LICENSES**

If an officer contacts a traffic violator for driving on a suspended or revoked license, the officer may issue a traffic citation pursuant to Vehicle Code § 14601.

If a computer check of a traffic violator's license status reveals a suspended or revoked driver license and the traffic violator still has his or her license in possession, the license shall be seized by the officer. The officer shall verbally advise the traffic violator of the suspension or revocation and issue the citation. The officer will be responsible for filling out the Verbal Notice form (DMV form DL-310) and causing that form and license to be forwarded to the Department of Motor Vehicles.

### **500.5 HIGH-VISIBILITY VESTS**

The Department has provided American National Standards Institute (ANSI) Class II high-visibility vests to increase the visibility of department members who may be exposed to hazards presented by passing traffic, maneuvering or operating vehicles, machinery and equipment (23 CFR 655.601; 8 CCR 1598).

### *Traffic Function and Responsibility*

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Although intended primarily for use while performing traffic related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the member.

#### **500.5.1 REQUIRED USE**

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery equipment. Examples of when high-visibility vests should be worn include traffic control duties, accident investigations, lane closures and while at disaster scenes, or anytime high visibility is desirable. When emergency conditions preclude the immediate donning of the vest, officers should retrieve and wear the vest as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

Vests maintained in the investigation units may be used any time a plainclothes officer might benefit from being readily identified as a member of law enforcement.

#### **500.5.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS**

High-visibility vests shall be maintained in each patrol vehicle, the side box of each police motorcycle and in the saddlebag or gear bag of each police bicycle. Each vest should be stored inside the re-sealable plastic bag provided to protect and maintain the vest in a serviceable condition. Before going into service each employee shall ensure a serviceable high-visibility vest is properly stored.

A supply of high-visibility vests will be maintained in the equipment room for replacement of damaged or unserviceable vests. The Traffic Lieutenant or his/her designee should be promptly notified whenever the supply of vests in the equipment room needs replenishing.

## Traffic Collision Reporting

### **502.1 PURPOSE AND SCOPE**

The Clovis Police Department prepares traffic collision reports in compliance with the California Highway Patrol Collision Investigation Manual (CIM) and as a public service makes traffic collision reports available to the community with some exceptions.

### **502.2 RESPONSIBILITY**

The Traffic Division will be responsible for distribution of the Collision Investigation Manual. The Traffic Division will receive all changes in the state manual and ensure conformity with this policy.

### **502.3 TRAFFIC COLLISION REPORTING**

All traffic collision reports taken by members of this department shall be forwarded to the Traffic Division for approval and data entry into the Records Management System. The Traffic Division Supervisor will be responsible for monthly and quarterly reports on traffic collision statistics to be forwarded to the Enforcement Division Commander, or other persons as required.

### **502.4 REPORTING SITUATIONS**

#### **502.4.1 TRAFFIC COLLISIONS INVOLVING CITY VEHICLES**

Traffic collision investigation reports shall be taken when a City-owned vehicle is involved in a traffic collision upon a roadway or highway wherein any damage or injury results. A general information report may be taken in lieu of a traffic collision report (CHP 555 form) at the direction of a supervisor when the collision occurs on private property or does not involve another vehicle. Whenever there is damage to a City vehicle, a Vehicle Damage Report shall be completed and forwarded to the appropriate Division Commander.

Photographs of the collision scene and vehicle damage shall be taken at the discretion of the traffic investigator or any supervisor.

#### **502.4.2 TRAFFIC COLLISIONS WITH POLICE DEPARTMENT EMPLOYEES**

When an employee of this department, either on-duty or off-duty, is involved in a traffic collision within the jurisdiction of the Clovis Police Department resulting in a serious injury or fatality, the Traffic Division Supervisor or the Watch Commander, may notify the California Highway Patrol for assistance.

The term serious injury is defined as any injury that may result in a fatality.

#### **502.4.3 TRAFFIC COLLISIONS WITH OTHER CITY EMPLOYEES OR OFFICIALS**

The Traffic Division Supervisor or on-duty Watch Commander may request assistance from the California Highway Patrol for the investigation of any traffic collision involving any City official or employee where a serious injury or fatality has occurred.

### ***Traffic Collision Reporting***

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#### **502.4.4 TRAFFIC COLLISIONS ON PRIVATE PROPERTY**

In compliance with the Collision Investigation Manual, traffic collision reports shall not be taken for traffic collisions occurring on private property unless there is a death or injury to any person involved, a hit-and-run violation, or Vehicle Code violation. An Incident Report may be taken at the discretion of any supervisor.

#### **502.4.5 TRAFFIC COLLISIONS ON ROADWAYS OR HIGHWAYS**

Traffic collision reports shall be taken when they occur on a roadway or highway within the jurisdiction of this department unless there are no injuries and both drivers agree to an exchange of driver/involved party information or that a report is not necessary.

#### **502.5 NOTIFICATION OF TRAFFIC BUREAU SUPERVISION**

In the event of a serious injury or death related traffic collision, the Watch Commander shall notify the Traffic Sergeant to relate the circumstances of the traffic collision and seek assistance from the Traffic Bureau. In the absence of a Traffic Sergeant, the Watch Commander or any supervisor may assign an accident investigator or motor officer to investigate the traffic collision.

## Vehicle Towing and Release

### 510.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Clovis Police Department. Nothing in this policy shall require the Department to tow a vehicle.

### 510.2 STORAGE AND IMPOUNDS

When circumstances permit, for example when towing a vehicle for parking or registration violations, the handling employee should, prior to having the vehicle towed, make a good faith effort to notify the owner of the vehicle that it is subject to removal. This may be accomplished by personal contact, telephone or by leaving a notice attached to the vehicle at least 24 hours prior to removal. If a vehicle presents a hazard, such as being abandoned on the roadway, it may be towed immediately.

The responsibilities of those employees towing, storing or impounding a vehicle are listed below.

#### 510.2.1 VEHICLE STORAGE REPORT

Department members requesting towing, storage or impound of a vehicle shall complete CHP Form 180 or the equivalent and accurately record the mileage and a description of property within the vehicle (Vehicle Code § 22850). A copy of the storage report should be given to the tow truck operator and the original shall be submitted to the Records and Public Services as soon as practicable after the vehicle is stored.

#### 510.2.2 REMOVAL FROM TRAFFIC COLLISION SCENES

When a vehicle has been involved in a traffic collision and must be removed from the scene, the officer shall have the driver select a towing company, if possible, and shall relay the request for the specified towing company to the dispatcher. When there is no preferred company requested, a company will be selected from the rotational list of towing companies in Communications.

If the owner is incapacitated, or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in a collision, the officer shall request the dispatcher to request a tow company from the rotational list of towing companies. The officer will then store the vehicle using a CHP Form 180 or equivalent.

#### 510.2.3 STORAGE AT ARREST SCENES

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this department to provide reasonable safekeeping by storing the arrestee's vehicle subject to the exceptions described below. The vehicle, however, shall be stored whenever it is needed for the furtherance of the investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be stored (e.g., traffic hazard, high-crime area).

The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of storing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:

## *Vehicle Towing and Release*

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- Traffic-related warrant arrest.
- Situations where the vehicle was not used to further the offense for which the driver was arrested.
- Whenever the licensed owner of the vehicle is present, willing, and able to take control of any vehicle not involved in criminal activity.
- Whenever the vehicle otherwise does not need to be stored and the owner requests that it be left at the scene. In such cases, the owner shall be informed that the Department will not be responsible for theft or damages.

### 510.2.4 IMPOUNDMENT AT SOBRIETY CHECKPOINTS

Whenever a driver is stopped at a sobriety checkpoint and the only violation is that the operator is driving without a valid driver's license, the officer shall make a reasonable attempt to identify the registered owner of the vehicle (Vehicle Code § 2814.2). The officer shall release the vehicle to the registered owner if the person is a licensed driver, or to another licensed driver authorized by the registered owner, provided the vehicle is claimed prior to the conclusion of the checkpoint operation.

If the vehicle is released at the checkpoint, the officer shall list on his/her copy of the notice to appear the name and driver's license number of the person to whom the vehicle is released.

When a vehicle cannot be released at the checkpoint, it shall be towed (Vehicle Code § 22651(p)). When a vehicle is removed at the checkpoint, it shall be released during the normal business hours of the storage facility to the registered owner or his/her agent upon presentation of a valid driver's license and current vehicle registration.

### 510.2.5 DRIVING A NON-CITY VEHICLE

Vehicles which have been towed by or at the direction of the Department should not be driven by police personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or to comply with posted signs.

### 510.2.6 DISPATCHER'S RESPONSIBILITIES

Upon receiving a request for towing, the dispatcher shall promptly use the DTS system by completing the web-form. Once the tow request has been accepted the dispatcher will place the tow company's name and phone number into the CAD call. The officer shall be advised when the request has been made and the towing service has been dispatched.

In the event a driver requests a specific tow company, the driver should be instructed to call that company and make the request on their own behalf.

### 510.2.7 RECORDS AND PUBLIC SERVICES RESPONSIBILITY

Records personnel shall promptly enter pertinent data from the completed storage form (CHP Form 180) into the Stolen Vehicle System and return the form to the Watch Commander for approval (Vehicle Code § 22651.5(b); Vehicle Code § 22851.3(b); Vehicle Code § 22854.5).



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### Vehicle Towing and Release

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Approved storage forms shall be promptly placed into the auto-file so that they are immediately available for release or review should inquiries be made.

Within 48 hours, excluding weekends and holidays, of the storage of any such vehicle it shall be the responsibility of the Records and Public Services to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS computers. Notice shall be sent to all such individuals by first-class mail (Vehicle Code § 22851.3(d); Vehicle Code § 22852(a); Vehicle Code § 14602.6(a)(2)). The notice shall include the following (Vehicle Code § 22852(b)):

- (a) The name, address, and telephone number of this Department.
- (b) The location of the place of storage and description of the vehicle, which shall include, if available, the name or make, the manufacturer, the license plate number, and the mileage.
- (c) The authority and purpose for the removal of the vehicle.
- (d) A statement that, in order to receive their post-storage hearing, the owners, or their agents, shall request the hearing in person, in writing, or by telephone within 10 days of the date appearing on the notice.

#### **510.3 TOWING SERVICES**

The City of Clovis periodically selects a firm to act as the official tow service and awards a contract to that firm. This firm will be used in the following situations:

- (a) When a vehicle is being held as evidence in connection with an investigation.
- (b) When a city owned vehicle is to be towed.

#### **510.4 VEHICLE INVENTORY**

All property in a stored or impounded vehicle shall be inventoried and listed on the vehicle storage form. This includes the trunk and any compartments or containers, even if closed and/or locked. Members conducting inventory searches should be as thorough and accurate as practical in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while in police custody, to provide for the safety of officers, and to protect the Department against fraudulent claims of lost, stolen, or damaged property.

#### **510.5 SECURITY OF VEHICLES AND PROPERTY**

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, officers should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions) that are not considered evidence or contraband.

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft, or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

*Vehicle Towing and Release*

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**510.6 RELEASE OF VEHICLE**

The Department will maintain a listed, 24-hour telephone number to provide information regarding impoundment of vehicles and the right of the registered owner to request a storage hearing. Releases for towed vehicles will be made available during regular, non-emergency business hours (Vehicle Code § 14602.6).

- (a) Vehicles removed pursuant to Vehicle Code § 22850 shall be released after proof of current registration is provided by the owner or the person in control of the vehicle and after all applicable fees are paid (Vehicle Code § 22850.3; Vehicle Code § 22850.5).
- (b) Vehicles removed that require payment of parking fines or proof of valid driver's license shall only be released upon presentation of proof of compliance, proof of payment, completion of affidavit, and payment of applicable fees related to the removal (Vehicle Code § 22651 et seq., Vehicle Code § 22652 et seq., Vehicle Code § 22850.3; Vehicle Code § 22850.5).
- (c) A vehicle removed pursuant to Vehicle Code § 14602.6(a) shall be released to the registered owner or his/her agent with proof of current registration, proof of a valid driver's license, and applicable fees paid prior to the end of the 30-day impoundment period under any of the following circumstances:
  - 1. The vehicle was stolen.
  - 2. If the driver reinstates his/her driver's license or acquires a license and provides proof of proper insurance.
  - 3. Any other circumstance as set forth in Vehicle Code § 14602.6.
  - 4. When there is no remaining community caretaking need to continue impound of the vehicle or the continued Impound would not otherwise comply with the Fourth Amendment.
- (d) An autonomous vehicle removed under authority of Vehicle Code § 22651(o)(1)(D) shall be released to the registered owner or person in control of the autonomous vehicle if the requirements of Vehicle Code § 22651(o)(3)(B) are met.

Personnel whose duties include releasing towed vehicles should consult the Vehicle Code under which the vehicle was towed or impounded for any specific requirements prior to release.

Employees who suspect that a vehicle was impounded in error should promptly advise a supervisor. Supervisors should approve, when appropriate, the release of the vehicle without requiring the registered owner or his/her agent to request a hearing, as described in the Vehicle Impound Hearings Policy.

## **STORAGE OF IMPOUNDED VEHICLES**

### **511.1 PURPOSE AND SCOPE**

To provide members of the Clovis Police Department with guidelines concerning the storage of impounded vehicles.

### **511.2 PROCEDURE**

In all cases wherein the Clovis Police Department orders a vehicle stored, impounded, or recovered, a Vehicle Storage/Impound Report in Net RMS shall be completed. In completing this report, each officer shall inventory the contents of the vehicle, including all personal property and closed containers located therein. All such noted property shall be listed in the Inventory or Inventory Notes.

- (a) When a vehicle is impounded for evidence (fatal traffic collision, used in a crime, etc.), the vehicle, after processing for evidence if applicable, should be stored at the Villa Yard unless extenuating circumstances exist. If for some reason the Villa Yard cannot be used to store the vehicle, it may be stored in a secured facility at an approved tow yard.
- (b) When the necessary evidence processing is completed and the vehicle has been moved to the Villa Yard or released to a tow company, Communications shall be notified of the vehicle disposition so that the CLETS/SVS entry can be updated.

## Vehicle Impound Hearings

### 511.1 PURPOSE AND SCOPE

This policy establishes a procedure for the requirement to provide vehicle storage or impound hearings pursuant to Vehicle Code § 22852.

### 511.2 STORED OR IMPOUND HEARING

When a vehicle is stored or impounded by any member of the Clovis Police Department, a hearing will be conducted upon the request of the registered or legal owner of the vehicle or his/her agent (Vehicle Code § 22650(a); Vehicle Code § 22852(a)).

The hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The hearing officer must be a person other than the person who directed the storage or impound of the vehicle (Vehicle Code § 22852(c)).

#### 511.2.1 HEARING PROCEDURES

The vehicle storage hearing is an informal process to evaluate the validity of an order to store or impound a vehicle. The employee who caused the storage or removal of the vehicle does not need to be present for this hearing.

All requests for a hearing on a stored or impounded vehicle shall be submitted in person, in writing or by telephone within 10 days of the date appearing on the notice (Vehicle Code § 22852(b)). The Traffic Sergeant will generally serve as the hearing officer. The person requesting the hearing may record the hearing at his/her own expense.

The failure of either the registered or legal owner or interested person or his/her agent to request a hearing in a timely manner or to attend a scheduled hearing shall be considered a waiver of and satisfaction of the post-storage hearing requirement (Vehicle Code § 22851.3(e)(2); Vehicle Code § 22852(d)).

Any relevant evidence may be submitted and reviewed by the hearing officer to determine if reasonable grounds have been established for the storage or impound of the vehicle. The initial burden of proof established by a preponderance of the evidence that the storage/impound was based on probable cause rests with the Department.

After consideration of all information, the hearing officer shall determine the validity of the storage or impound of the vehicle in question and then render a decision. The hearing officer shall also consider any mitigating circumstances attendant to the storage that reasonably would warrant the release of the vehicle or a modification or reduction of the period the vehicle is impounded (Vehicle Code § 14602.6(b); Vehicle Code § 14602.8(b)).

Aside from those mitigating circumstances enumerated in the Vehicle Code, the registered owner's lack of actual knowledge that the driver to whom the vehicle was loaned was not validly licensed may constitute a mitigating circumstance under Vehicle Code § 14602.6(b) or 14602.8(b), warranting release of the vehicle. This mitigating circumstance exception is not limited to situations

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### *Vehicle Impound Hearings*

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where the owner made a reasonable inquiry as to the licensed status of the driver before lending the vehicle.

The legislative intent and this department's policy is to prevent unlicensed driving pursuant to Vehicle Code §14602.6. If this purpose is not furthered by the continued impoundment of a vehicle, release is most often appropriate.

- (a) If a decision is made that reasonable grounds for storage or impound have been established, the hearing officer shall advise the inquiring party of the decision and that the inquiring party may pursue further civil remedies if desired.
  - 1. If mitigating circumstances are found to be relevant, the hearing officer shall make reasonable adjustments to the impound period, storage or assessment of fees as warranted.
- (b) If a decision is made that reasonable grounds for storage or impound have not been established or sufficient mitigating circumstances exist, the vehicle in storage shall be released immediately. Towing and storage fees will be paid at the Department's expense (Vehicle Code § 22852(e)).
- (c) If a decision is made that reasonable grounds for storage have not been established or sufficient mitigating circumstances exist, and the vehicle has been released with fees having been paid, the receipt for such fees will be forwarded with a letter to the appropriate Division Commander. The hearing officer will recommend to the appropriate Division Commander that the fees paid by the registered or legal owner of the vehicle in question or their agent be reimbursed by the Department.

## Impaired Driving

### 513.1 PURPOSE AND SCOPE

This policy provides guidance to those department members who play a role in the detection and investigation of driving under the influence (DUI).

### 513.2 POLICY

The Clovis Police Department is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of California's impaired driving laws.

### 513.3 INVESTIGATIONS

Officers should not enforce DUI laws to the exclusion of their other duties unless specifically assigned to DUI enforcement. All officers are expected to enforce these laws with due diligence.

### 513.4 CHEMICAL TESTS

A person implies consent to a chemical test or tests, and to providing the associated chemical sample, under any of the following (Vehicle Code § 23612):

- (a) The person is arrested for driving a vehicle while under the influence, pursuant to Vehicle Code § 23152.
- (b) The person is under 21 years of age and is arrested by an officer having reasonable cause to believe that the person's blood alcohol content is 0.05 or more (Vehicle Code § 23140).
- (c) The person is under 21 years of age and detained by an officer having reasonable cause to believe that the person was driving a vehicle while having a blood alcohol content of 0.01 or more (Vehicle Code § 23136).
- (d) The person was operating a vehicle while under the influence and proximately caused bodily injury to another person (Vehicle Code § 23153).

If a person withdraws this implied consent, or is unable to withdraw consent (e.g., the person is unconscious), the officer should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample.

#### 513.4.1 CHOICE OF TESTS

Officers shall respect a viable choice of chemical test made by an arrestee, as provided for by law (e.g., breath will not be acceptable for suspected narcotics influence).

A person arrested for DUI has the choice of whether the test is of his/her blood or breath, and the officer shall advise the person that he/she has that choice. If the person arrested either is incapable, or states that he/she is incapable, of completing the chosen test, the person shall submit to the remaining test.

### *Impaired Driving*

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If the person chooses to submit to a breath test and there is reasonable cause to believe that the person is under the influence of a drug or the combined influence of alcohol and any drug, the officer may also request that the person submit to a blood test. If the person is incapable of completing a blood test, the person shall submit to and complete a urine test (Vehicle Code § 23612(a)(2)(C)).

#### 513.4.2 BREATH TEST

The Traffic Lieutenant or his/her designee should ensure that all devices used for the collection and analysis of breath samples are properly serviced and tested and that a record of such service and testing is properly maintained.

Officers obtaining a breath sample should monitor the device for any sign of malfunction. Any anomalies or equipment failures should be noted in the appropriate report and promptly reported to the Traffic Sergeant.

When the arrested person chooses a breath test, the handling officer shall advise the person that the breath-testing equipment does not retain a sample, and the person may, if desired, provide a blood specimen, which will be retained to facilitate subsequent verification testing (Vehicle Code § 23614).

The officer should also require the person to submit to a blood test if the officer has a clear indication that a blood test will reveal evidence of any drug or the combined influence of an alcoholic beverage and any drug. Evidence of the officer's belief shall be included in the officer's report (Vehicle Code § 23612(a)(2)(C)).

#### 513.4.3 BLOOD SAMPLES

Only persons authorized by law to draw blood shall collect blood samples (Vehicle Code § 23158). The blood draw should be witnessed by the assigned officer. No officer, even if properly certified, should perform this task.

Officers should inform an arrestee that if he/she chooses to provide a blood sample, a separate sample can be collected for alternate testing. Unless medical personnel object, two samples should be collected and retained as evidence, so long as only one puncture is required.

The blood sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

If an arrestee cannot submit to a blood draw because he/she has a bleeding disorder or has taken medication that inhibits coagulation, he/she shall not be required to take a blood test. Such inability to take a blood test should not be considered a refusal. However, that arrestee may be required to complete another available and viable test.

#### 513.4.4 URINE SAMPLES

If a urine test will be performed, the arrestee should be promptly transported to the appropriate testing site. The officer shall follow any directions accompanying the urine evidence collection kit.

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Urine samples shall be collected and witnessed by an officer or jail staff member of the same sex as the individual giving the sample. The arrestee should be allowed sufficient privacy to maintain his/her dignity, to the extent possible, while still ensuring the accuracy of the sample (Vehicle Code § 23158(i)).

The sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

### **513.4.5 STATUTORY NOTIFICATIONS**

Officers requesting that a person submit to chemical testing shall provide the person with the mandatory warning pursuant to Vehicle Code § 23612(a)(1)(D) and Vehicle Code § 23612(a)(4).

### **513.4.6 PRELIMINARY ALCOHOL SCREENING**

Officers may use a preliminary alcohol screening (PAS) test to assist in establishing reasonable cause to believe a person is DUI. The officer shall advise the person that the PAS test is being requested to assist in determining whether the person is under the influence of alcohol or drugs, or a combination of the two. Unless the person is under the age of 21, he/she shall be advised that the PAS test is voluntary. The officer shall also advise the person that submitting to a PAS test does not satisfy his/her obligation to submit to a chemical test as otherwise required by law (Vehicle Code § 23612).

### **513.4.7 PRELIMINARY ALCOHOL SCREENING FOR A PERSON UNDER AGE 21**

If an officer lawfully detains a person under 21 years of age who is driving a motor vehicle and the officer has reasonable cause to believe that the person has a blood alcohol content of 0.01 or more, the officer shall request that the person take a PAS test to determine the presence of alcohol in the person, if a PAS test device is immediately available. If a PAS test device is not immediately available, the officer may request the person to submit to chemical testing of his/her blood, breath or urine, conducted pursuant to Vehicle Code § 23612 (Vehicle Code § 13388).

If the person refuses to take or fails to complete the PAS test or other chemical test, or if the result of either test reveals a blood alcohol content of 0.01 or more, the officer shall proceed to serve the person with a notice of order of suspension pursuant to this policy (Vehicle Code § 13388).

### **513.5 REFUSALS**

When an arrestee refuses to provide a viable chemical sample, officers should:

- (a) Advise the person of the requirement to provide a sample (Vehicle Code § 23612).
- (b) Audio- and/or video-record the admonishment when it is practicable.
- (c) Document the refusal in the appropriate report.

Upon refusal to submit to a chemical test as required by law, officers shall personally serve the notice of order of suspension upon the person and take possession of any state-issued license to operate a motor vehicle that is held by that person (Vehicle Code § 23612(e); Vehicle Code § 23612(f)).



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**513.5.1 BLOOD SAMPLE WITHOUT CONSENT**

A blood sample may be obtained from a person who refuses a chemical test when any of the following conditions exist:

- (a) A search warrant has been obtained (Penal Code § 1524).
- (b) The officer can articulate that exigent circumstances exist. Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol or controlled or prohibited substances in the person's bloodstream. Exigency can be established by the existence of special facts such as a lengthy time delay in obtaining a blood sample due to an accident investigation or medical treatment of the person.

**513.5.2 FORCED BLOOD SAMPLE**

If an arrestee indicates by word or action that he/she will physically resist a blood draw, the officer should request a supervisor to respond.

The responding supervisor should:

- (a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.
- (b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes a viable form of testing in a timely manner.
- (c) Advise the person of his/her duty to provide a sample (even if this advisement was previously done by another officer) and attempt to persuade the individual to submit to such a sample without physical resistance.
  - 1. This dialogue should be recorded on audio and/or video if practicable.
- (d) Ensure that the blood sample is taken in a medically approved manner.
- (e) Ensure the forced blood draw is recorded on audio and/or video when practicable.
- (f) Monitor and ensure that the type and level of force applied appears reasonable under the circumstances:
  - 1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.
  - 2. In misdemeanor cases, if the arrestee becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.
  - 3. In felony cases, force which reasonably appears necessary to overcome the resistance to the blood draw may be permitted.
- (g) Ensure the use of force and methods used to accomplish the collection of the blood sample are documented in the related report.

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If a supervisor is unavailable, officers are expected to use sound judgment and perform as a responding supervisor, as set forth above.

### **513.5.3 STATUTORY NOTIFICATIONS UPON REFUSAL**

Upon refusal to submit to a chemical test as required by law, officers shall personally serve the notice of order of suspension upon the arrestee and take possession of any state-issued license to operate a motor vehicle that is held by that individual (Vehicle Code § 23612(e); Vehicle Code § 23612(f)).

### **513.6 RECORDS AND PUBLIC SERVICES RESPONSIBILITIES**

The Records Supervisor will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney's office.

### **513.7 ADMINISTRATIVE HEARINGS**

The Records Supervisor will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to DMV.

Any officer who receives notice of required attendance to an administrative license suspension hearing should promptly notify the prosecuting attorney.

An officer called to testify at an administrative hearing should document the hearing date and DMV file number in a supplemental report. Specific details of the hearing generally should not be included in the report unless errors, additional evidence or witnesses are identified.

### **513.8 TRAINING**

The Training Coordinator should ensure that officers participating in the enforcement of DUI laws receive regular training. Training should include, at minimum, current laws on impaired driving, investigative techniques and rules of evidence pertaining to DUI investigations. The Training Coordinator should confer with the prosecuting attorney's office and update training topics as needed.

### **513.9 ARREST AND INVESTIGATION**

#### **513.9.1 WARRANTLESS ARREST**

In addition to the arrest authority granted to officers pursuant to Penal Code § 836, an officer may make a warrantless arrest of a person that the officer has reasonable cause to believe has been driving under the influence of an alcoholic beverage or any drug, or under the combined influence of the same when (Vehicle Code § 40300.5):

- (a) The person is involved in a traffic accident.
- (b) The person is observed in or about a vehicle that is obstructing the roadway.
- (c) The person will not be apprehended unless immediately arrested.

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- (d) The person may cause injury to him/herself or damage property unless immediately arrested.
- (e) The person may destroy or conceal evidence of a crime unless immediately arrested.

**513.9.2 OFFICER RESPONSIBILITIES**

The officer serving the arrested person with a notice of an order of suspension shall immediately (Vehicle Code § 23612):

- (a) Forward a copy of the completed notice of suspension or revocation form and any confiscated driver's license to the Department of Motor Vehicles (DMV).
- (b) Forward a sworn report to DMV that contains the required information in Vehicle Code § 13380.
- (c) Forward the results to the appropriate forensic laboratory if the person submitted to a blood or urine test.

## Traffic Citations

### 515.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations, the procedure for dismissal, correction, and voiding of traffic citations.

### 515.2 RESPONSIBILITIES

The Traffic Sergeant shall be responsible for the development and design of all Department traffic citations in compliance with state law and the Judicial Council.

The Records and Public Services shall be responsible for the supply and accounting of all traffic citations issued to employees of this department.

### 515.3 DISMISSAL OF TRAFFIC CITATIONS

Employees of this department do not have the authority to dismiss a citation once it has been issued. Only the court has the authority to dismiss a citation that has been issued (Vehicle Code § 40500(d)). Any request from a recipient to dismiss a citation shall be referred to the Traffic Bureau Manager. Upon a review of the circumstances involving the issuance of the traffic citation, the Traffic Bureau Manager may request the Patrol Division Commander to recommend dismissal of the traffic citation. If approved, the citation will be forwarded to the appropriate court with a request for dismissal. All recipients of traffic citations whose request for the dismissal of a traffic citation has been denied shall be referred to the appropriate court.

Should an officer determine during a court proceeding that a traffic citation should be dismissed in the interest of justice or where prosecution is deemed inappropriate the officer may request the court to dismiss the citation. Upon dismissal of the traffic citation by the court, the officer shall notify his/her immediate supervisor of the circumstances surrounding the dismissal and shall complete any paperwork as directed or required. The citation dismissal shall then be forwarded to the Patrol Division Commander for review.

### 515.4 VOIDING TRAFFIC CITATIONS

Voiding a traffic citation may occur when a traffic citation has not been completed or where it is completed, but not issued. All copies of the citation shall be presented to a supervisor to approve the voiding of the citation. The citation and copies shall then be forwarded to the Records Division.

### 515.5 CORRECTION OF TRAFFIC CITATIONS

When a traffic citation is issued and in need of correction, the officer issuing the citation shall complete a citation amendment that specifies the corrections. The issuing officer shall mail the violator his/her copy of the citation amendment and submit the remaining copies to the Records Division. The Records Division shall forward the citation amendment to the court having jurisdiction.

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## *Traffic Citations*

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### **515.6 DISPOSITION OF TRAFFIC CITATIONS**

The court and file copies of all traffic citations issued by members of this department shall be forwarded to the employee's immediate supervisor for review. The citation copies shall then be filed with the Records and Public Services.

Upon separation from employment with this department, all employees issued traffic citation books shall return any unused citations to the Records and Public Services.

### **515.7 NOTICE OF PARKING VIOLATION APPEAL PROCEDURE**

Disposition of notice of parking violation appeals is conducted pursuant to Vehicle Code § 40215.

#### **515.7.1 APPEAL STAGES**

Appeals may be pursued sequentially at three different levels:

- (a) Administrative reviews are conducted by the Traffic Lieutenant or other officer as designated by the Chief of Police, who will review written/documentary data. Requests for administrative reviews are available at the front desk/ Records Division of the Clovis Police Department. These requests are informal written statements outlining why the notice of parking violation should be dismissed. Copies of documentation relating to the notice of parking violation and the request for dismissal must be mailed to the mailing address of the processing agency.
- (b) If the appellant wishes to pursue the matter beyond administrative review, an Administrative hearing may be conducted in person or by written application, at the election of the appellant. A hearing officer designated by the Chief of Police will review the existing administrative file, amendments, and/or testimonial material provided by the appellant and may conduct further investigation or follow-up on their own.
- (c) If the appellant wishes to pursue the matter beyond an administrative hearing, he/she may file an appeal with the Fresno County Superior Court, or other court assigned by the Fresno County court administrator. The appellant must file the appeal within thirty (30) calendar days after mailing or personal delivery of the final decision of the hearing officer. A fee of approximately \$25.00 is required with the filing of the appeal.

#### **515.7.2 TIME REQUIREMENTS**

Administrative review or appearance before a hearing examiner will not be provided if the mandated time limits are not adhered to by the violator.

- (a) Requests for an administrative review must be postmarked within 21 calendar days of issuance of the notice of parking violation, or within 14 calendar days of the mailing of the Notice of Delinquent Parking Violation (Vehicle Code § 40215(a)).
- (b) Requests for administrative hearings must be made no later than 21 calendar days following the notification mailing of the results of the administrative review (Vehicle Code § 40215(b)).

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- (c) An administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to Vehicle Code § 40200 - 40225. The person requesting the hearing may request one continuance, not to exceed 21 calendar days (Vehicle Code § 40215).
- (d) Registered owners of vehicles may transfer responsibility for the violation via timely affidavit of non-liability when the vehicle has been transferred, rented or under certain other circumstances (Vehicle Code § 40209; Vehicle Code § 40210).

#### **515.7.3 COSTS**

- (a) There is no cost for an administrative review.
- (b) Appellants must deposit the full amount due for the citation before receiving an administrative hearing, unless the person is indigent, as defined in Vehicle Code § 40220, and provides satisfactory proof of inability to pay (Vehicle Code § 40215).
- (c) An appeal through Superior Court requires prior payment of filing costs, including applicable court charges and fees. These costs will be reimbursed to the appellant in addition to any previously paid fines if appellant's liability is overruled by the Superior Court.

#### **515.8 JUVENILE CITATIONS**

Completion of traffic citation forms for juveniles may vary slightly from the procedure for adults. The juvenile's age, place of residency, and the type of offense should be considered before issuing the juvenile a citation.

## Disabled Vehicles

### 519.1 PURPOSE AND SCOPE

Vehicle Code § 20018 provides that all law enforcement agencies having responsibility for traffic enforcement may develop and adopt a written policy to provide assistance to motorists in disabled vehicles within their primary jurisdiction.

### 519.2 OFFICER RESPONSIBILITY

When an on-duty officer observes a disabled vehicle on the roadway, the officer should make a reasonable effort to provide assistance. If that officer is assigned to a call of higher priority, the dispatcher should be advised of the location of the disabled vehicle and the need for assistance. The dispatcher should then assign another available officer to respond for assistance as soon as practical.

### 519.3 EXTENT OF ASSISTANCE

In most cases, a disabled motorist will require assistance. After arrangements for assistance are made, continued involvement by department personnel will be contingent on the time of day, the location, the availability of departmental resources, and the vulnerability of the disabled motorist.

#### 519.3.1 MECHANICAL REPAIRS

Department personnel shall not make mechanical repairs to a disabled vehicle. The use of push bumpers to relocate vehicles to a position of safety is not considered a mechanical repair.

#### 519.3.2 RELOCATION OF DISABLED VEHICLES

The relocation of disabled vehicles by members of this department by pushing or pulling a vehicle should only occur when the conditions reasonably indicate that immediate movement is necessary to reduce a hazard presented by the disabled vehicle.

#### 519.3.3 RELOCATION OF DISABLED MOTORIST

The relocation of a disabled motorist should only occur with the person's consent and should be suggested when conditions reasonably indicate that immediate movement is necessary to mitigate a potential hazard. The department member may stay with the disabled motorist or transport him/her to a safe area to await pickup.

### 519.4 PUBLIC ACCESS TO THIS POLICY

This written policy is available upon request.

## 72-Hour Parking Violations

### 523.1 PURPOSE AND SCOPE

This policy provides procedures for the marking, recording, and storage of vehicles parked in violation of the Clovis City Ordinance regulating 72-hour parking violations and abandoned vehicles under the authority of Vehicle Code § 22669.

### 523.2 MARKING VEHICLES

Vehicles suspected of being in violation of the City of Clovis 72-Hour Parking Ordinance shall be marked and noted on the Clovis Police Department Marked Vehicle Card. No case number is required at this time.

A visible chalk mark should be placed on the left rear tire tread at the fender level unless missing tires or other vehicle conditions prevent marking. Any deviation in markings shall be noted on the Marked Vehicle Card. The investigating employee should make a good faith effort to notify the owner of any vehicle subject to towing prior to having the vehicle removed. This may be accomplished by personal contact, telephone or by leaving notice attached to the vehicle at least 24 hours prior to removal.

All Marked Vehicle Cards shall be submitted to the Traffic Bureau for computer data entry.

If a marked vehicle has been moved or the markings have been removed during a 72-hour investigation period, the vehicle shall be marked again for the 72-hour parking violation and a Marked Vehicle Card completed and forwarded to the Traffic Bureau.

Parking citations for the 72-hour parking ordinance shall not be issued when the vehicle is stored for the 72-hour parking violation.

#### 523.2.1 MARKED VEHICLE FILE

The Traffic Bureau shall be responsible for maintaining a file for all Marked Vehicle Cards.

Parking control officers assigned to the Traffic Bureau shall be responsible for the follow up investigation of all 72-hour parking violations noted on the Marked Vehicle Cards.

#### 523.2.2 VEHICLE STORAGE

Any vehicle in violation shall be stored by the authorized towing service and a vehicle storage report shall be completed by the officer authorizing the storage of the vehicle.

The storage report form shall be submitted to the Records and Public Services immediately following the storage of the vehicle. It shall be the responsibility of the Records and Public Services to immediately notify the Stolen Vehicle System (SVS) of the Department of Justice in Sacramento (Vehicle Code § 22851.3(b)). Notification may also be made to the National Law Enforcement Telecommunications System (NLETS)(Vehicle Code § 22854.5).

Within 48 hours of the storage of any such vehicle, excluding weekends and holidays, it shall be the responsibility of the Records and Public Services to determine the names and addresses of



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any individuals having an interest in the vehicle through DMV or CLETS computers. Notice to all such individuals shall be sent first-class or certified mail pursuant to Vehicle Code § 22851.3(d).

## **Chapter 6 - Investigation Operations**

## Sexual Assault Investigations

### 602.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the investigation of sexual assaults. These guidelines will address some of the unique aspects of such cases and the effects that these crimes have on the victims.

Mandatory notifications requirements are addressed in the Child Abuse and Adult Abuse policies.

#### 602.1.1 DEFINITIONS

Definitions related to this policy include:

**Sexual assault** - Any crime or attempted crime of a sexual nature, to include, but not limited to, offenses defined in Penal Code § 243.4, Penal Code § 261 et seq., and Penal Code § 285 et seq.

**Sexual Assault Response Team (SART)** - A multidisciplinary team generally comprised of advocates; law enforcement officers; forensic medical examiners, including sexual assault forensic examiners (SAFEs) or sexual assault nurse examiners (SANEs) if possible; forensic laboratory personnel; and prosecutors. The team is designed to coordinate a broad response to sexual assault victims.

### 602.2 POLICY

It is the policy of the Clovis Police Department that its members, when responding to reports of sexual assaults, will strive to minimize the trauma experienced by the victims, and will aggressively investigate sexual assaults, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community.

### 602.3 QUALIFIED INVESTIGATORS

Qualified investigators should be available for assignment of sexual assault investigations. These investigators should:

- (a) Have specialized training in, and be familiar with, interview techniques and the medical and legal issues that are specific to sexual assault investigations.
- (b) Conduct follow-up interviews and investigation.
- (c) Present appropriate cases of alleged sexual assault to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and medical personnel as needed.
- (e) Provide referrals to therapy services, victim advocates and support for the victim.
- (f) Participate in or coordinate with SART.

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### **602.4 REPORTING**

In all reported or suspected cases of sexual assault, a report should be written and assigned for follow-up investigation. This includes incidents in which the allegations appear unfounded or unsubstantiated.

### **602.5 RELEASING INFORMATION TO THE PUBLIC**

In cases where the perpetrator is not known to the victim, and especially if there are multiple crimes where more than one appear to be related, consideration should be given to releasing information to the public whenever there is a reasonable likelihood that doing so may result in developing helpful investigative leads. The Investigations supervisor should weigh the risk of alerting the suspect to the investigation with the need to protect the victim and the public, and to prevent more crimes.

### **602.6 TRAINING**

Subject to available resources, periodic training will be provided to:

- (a) Members who are first responders. Training should include:
  - 1. Initial response to sexual assaults.
  - 2. Legal issues.
  - 3. Victim advocacy.
  - 4. Victim's response to trauma.
- (b) Qualified investigators who should receive advanced training on additional topics. Advanced training should include:
  - 1. Interviewing sexual assault victims.
  - 2. SART.
  - 3. Medical and legal aspects of sexual assault investigations.
  - 4. Serial crimes investigations.
  - 5. Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (ViCAP).
  - 6. Techniques for communicating with victims to minimize trauma.

### **602.7 VICTIM INTERVIEWS**

The primary considerations in sexual assault investigations, which begin with the initial call to Communications, should be the health and safety of the victim, the preservation of evidence, and preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

Whenever possible, a member of SART should be included in the initial victim interviews. An in-depth follow-up interview should not be conducted until after the medical and forensic examinations are completed and the personal needs of the victim have been met (e.g., change

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of clothes, bathing). The follow-up interview may be delayed to the following day based upon the circumstances. Whenever practicable, the follow-up interview should be conducted by a qualified investigator.

No opinion of whether the case is unfounded shall be included in the report.

Victims shall not be asked or required to take a polygraph examination (34 USC § 10451; Penal Code § 637.4).

Victims should be apprised of applicable victim's rights provisions, as outlined in the Victim and Witness Assistance Policy.

### **602.7.1 VICTIM RIGHTS**

Whenever there is an alleged sexual assault, the assigned officer shall accomplish the following:

- (a) Advise the victim in writing of the right to have a victim advocate and a support person of the victim's choosing present at any interview or contact by law enforcement, any other rights of a sexual assault victim pursuant to Penal Code § 680.2, and the right to have a person of the same or opposite gender present in the room during any interview with a law enforcement official unless no such person is reasonably available (Penal Code § 679.04).
- (b) If the victim is transported to a hospital for any medical evidentiary or physical examination, the officer shall immediately cause the local rape victim counseling center to be notified (Penal Code § 264.2).
  1. The officer shall not discourage a victim from receiving a medical evidentiary or physical examination (Penal Code § 679.04).
  2. A support person may be excluded from the examination by the officer or the medical provider if his/her presence would be detrimental to the purpose of the examination (Penal Code § 264.2).

### **602.7.2 VICTIM CONFIDENTIALITY**

Officers investigating or receiving a report of an alleged sex offense shall inform the victim, or the victim's parent or guardian if the victim is a minor, that his/her name will become a matter of public record unless the victim requests that his/her name not be made public. The reporting officer shall document in his/her report that the victim was properly informed and shall include any related response made by the victim, or if a minor, any response made by the victim's parent or guardian (Penal Code § 293).

Except as authorized by law, members of this department shall not publicly disclose the name of any victim of a sex crime who has exercised his/her right to confidentiality (Penal Code § 293).

### **602.8 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE**

Whenever possible, a SART member should be involved in the collection of forensic evidence from the victim.

When the facts of the case indicate that collection of biological evidence is warranted, it should be collected regardless of how much time has elapsed since the reported assault.

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If a drug-facilitated sexual assault is suspected, urine and blood samples should be collected from the victim as soon as practicable.

Subject to requirements set forth in this policy, biological evidence from all sexual assault cases, including cases where the suspect is known by the victim, should be submitted for testing.

Victims who choose not to assist with an investigation, do not desire that the matter be investigated or wish to remain anonymous may still consent to the collection of evidence under their control. In these circumstances, the evidence should be collected and stored appropriately.

### **602.8.1 COLLECTION AND TESTING REQUIREMENTS**

Members investigating a sexual assault offense should take every reasonable step to ensure that DNA testing of such evidence is performed in a timely manner and within the time periods prescribed by Penal Code § 803(g). Generally, rape kits should be submitted to the crime lab within 20 days after being booked into evidence (Penal Code § 680).

In order to maximize the effectiveness of such testing and identify the perpetrator of any sexual assault, the assigned officer shall ensure that an information profile for the sexual assault kit evidence has been created in the California Department of Justice (DOJ) SAFE-T database within 120 days of collection and should further ensure that the results of any such test have been timely entered into and checked against both the DOJ Cal-DNA database and the Combined DNA Index System (CODIS) (Penal Code § 680.3).

If the assigned officer determines that a kit submitted to a private laboratory for analysis has not been tested within 120 days after submission, the officer shall update the SAFE-T database to reflect the reason for the delay in testing. The assigned officer shall continue to update the status every 120 days thereafter until the evidence has been analyzed or the statute of limitations has run (Penal Code § 680.3).

If, for any reason, DNA evidence in a sexual assault case in which the identity of the perpetrator is in issue and is not going to be analyzed within 18 months of the crime, the assigned officer shall notify the victim of such fact in writing no less than 60 days prior to the expiration of the 18-month period (Penal Code § 680(d)).

Additional guidance regarding evidence retention and destruction is found in the Property and Evidence Policy.

### **602.8.2 DNA TEST RESULTS**

A SART member should be consulted regarding the best way to deliver biological testing results to a victim so as to minimize victim trauma, especially in cases where there has been a significant delay in getting biological testing results (e.g., delays in testing the evidence or delayed DNA databank hits). Members should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as provided in the Victim and Witness Assistance Policy.

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- (a) Upon receipt of a written request from a sexual assault victim or the victim's authorized designee, members investigating sexual assault cases shall inform the victim of the status of the DNA testing of any evidence from the victim's case (Penal Code § 680).
  - 1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
  - 2. Absent a written request, no member of this department is required to, but may, communicate with the victim or the victim's authorized designee regarding the status of any DNA testing.
- (b) Subject to the commitment of sufficient resources to respond to requests for information, sexual assault victims shall further have the following rights (Penal Code § 680):
  - 1. To be informed if a DNA profile of the assailant was obtained from the testing of the rape kit or other crime scene evidence from their case.
  - 2. To be informed if there is a match between the DNA profile of the assailant developed from the evidence and a DNA profile contained in the DOJ Convicted Offender DNA Database, providing that disclosure would not impede or compromise an ongoing investigation.
  - 3. To be informed if the DNA profile of the assailant developed from the evidence has been entered into the DOJ Databank of case evidence.
- (c) Provided that the sexual assault victim or the victim's authorized designee has kept the assigned officer informed with regard to current address, telephone number and email address (if available), any victim or the victim's authorized designee shall, upon request, be advised of any known significant changes regarding the victim's case (Penal Code § 680).
  - 1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
  - 2. No officer shall be required or expected to release any information which might impede or compromise any ongoing investigation.

**602.9 DISPOSITION OF CASES**

If the assigned investigator has reason to believe the case is without merit, the case may be classified as unfounded only upon review and approval of the Investigations supervisor.

Classification of a sexual assault case as unfounded requires the Investigations supervisor to determine that the facts have significant irregularities with reported information and that the incident could not have happened as it was reported. When a victim has recanted his/her original statement, there must be corroborating evidence that the allegations were false or baseless (i.e., no crime occurred) before the case should be determined as unfounded.

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**602.10 CASE REVIEW**

The Investigations supervisor should ensure case dispositions are reviewed on a periodic basis, at least annually, using an identified group that is independent of the Investigation process. The reviews should include an analysis of:

- Case dispositions.
- Decisions to collect biological evidence.
- Submissions of biological evidence for lab testing.

The SART and/or victim advocates should be considered for involvement in this audit. Summary reports on these reviews should be forwarded through the chain of command to the Chief of Police.



## Asset Forfeiture

### 606.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

#### 606.1.1 DEFINITIONS

Definitions related to this policy include:

**Fiscal agent** - The person designated by the Chief of Police to be responsible for securing and maintaining seized assets and distributing any proceeds realized from any forfeiture proceedings. This includes any time the Clovis Police Department seizes property for forfeiture or when the Clovis Police Department is acting as the fiscal agent pursuant to a multi-agency agreement.

**Forfeiture** - The process by which legal ownership of an asset is transferred to a government or other authority.

**Forfeiture reviewer** - The department member assigned by the Chief of Police who is responsible for reviewing all forfeiture cases and for acting as the liaison between the Department and the assigned attorney.

**Property subject to forfeiture** - The following may be subject to forfeiture:

- (a) Property related to a narcotics offense, which includes (Heath and Safety Code § 11470; Health and Safety Code § 11470.1):
  - 1. Property (not including real property or vehicles) used, or intended for use, as a container for controlled substances, materials to manufacture controlled substances, etc.
  - 2. Interest in a vehicle (car, boat, airplane, other vehicle) used to facilitate the manufacture, possession for sale or sale of specified quantities of controlled substances.
  - 3. Money, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, proceeds traceable to an exchange, etc.
  - 4. Real property when the owner is convicted of violating Health and Safety Code § 11366, Health and Safety Code § 11366.5 or Health and Safety Code § 11366.6 (drug houses) when the property was not used as a family residence or for other lawful purposes, or property owned by two or more persons, one of whom had no knowledge of its unlawful use.
  - 5. The expenses of seizing, eradicating, destroying or taking remedial action with respect to any controlled substance or its precursors upon conviction for the unlawful manufacture or cultivation of any controlled substance or its precursors.

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### Asset Forfeiture

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- (b) Property related to criminal profiteering (may include gang crimes), to include (Penal Code § 186.2; Penal Code § 186.3):
  - 1. Any property interest, whether tangible or intangible, acquired through a pattern of criminal profiteering activity.
  - 2. All proceeds acquired through a pattern of criminal profiteering activity, including all things of value that may have been received in exchange for the proceeds immediately derived from the pattern of criminal profiteering activity.

**Seizure** - The act of law enforcement officials taking property, cash or assets that have been used in connection with or acquired by specified illegal activities.

#### 606.2 POLICY

Health & Safety Code § 11470 provides for the forfeiture of any currency, and real and/or personal property, which represents proceeds or was used to facilitate narcotic activity in violation of the Health & Safety Code. The offense(s) must involve the manufacturing, distribution, transportation for sale, sales, possession for sale, offer for sale, offer to manufacture, or the conspiracy to commit certain Health & Safety Code violations.

Health & Safety Code § 11488a specifies that any peace officer having probable cause, may seize all moneys, negotiable instruments, securities, vehicles, boats, airplanes or other things of value which are forfeitable pursuant to Health & Safety Code § 11470 (e) or (f).

#### 606.3 ASSET SEIZURE

Before seizing any currency, vehicle, or personal property pursuant to Health & Safety Code § 11470, a patrol officer should contact a narcotics detective. The following guidelines will be observed:

- (a) The seizing officer or the detective will serve all persons with Notice of Seizure and Intended Forfeiture forms which includes an attached County of Origin Claim form Opposing Forfeiture, and a forfeiture receipt. Disclaimers (English/Spanish) will be completed on all persons disclaiming ownership of currency, vehicle, or property seized
- (b) When someone has made notification other than the Asset Forfeiture detective, a copy of all reports and all applicable asset forfeiture paperwork must be forwarded to the Asset Forfeiture detective in Narcotics, for review
- (c) Interview all persons involved concerning their possession of the seized assets, financial situation, employment, income, and other resources. If a defendant has not given a Miranda waiver before an interview regarding assets, the detective will conduct a further criminal interview as necessary
- (d) Attempt to promptly determine all lienholders or all persons who may have a legal interest in the seized currency, vehicle or property for further contact, investigation and notification

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### ***Asset Forfeiture***

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- (e) The seizure of assets subject to forfeiture is a civil proceeding filed through the county of origin, Office of the District Attorney Forfeiture Unit or Narcotic Enforcement Team
- (f) The narcotics investigator will determine if it will be a state or federal asset forfeiture case

#### **606.3.1 PROPERTY SUBJECT TO SEIZURE**

Property seized subject to forfeiture will be inventoried and booked into Property. The property will be checked through the Automated Property System to determine if the property has been stolen.

The property will be booked as evidence, with the notation in the comment section of the property form, "Seized Subject to Forfeiture." Property seized subject to forfeiture should be booked on a separate property form. No other evidence from the case should be booked on this form.

#### **606.3.2 PROPERTY NOT SUBJECT TO SEIZURE**

The following property should not be seized for forfeiture:

- (a) Cash and property that does not meet the forfeiture counsel's current minimum forfeiture thresholds should not be seized.
- (b) Real property is not subject to seizure, absent exigent circumstances, without a court order (Health and Safety Code § 11471).
- (c) A vehicle which may be lawfully driven on the highway if there is a community property interest in the vehicle by a person other than the suspect and the vehicle is the sole vehicle available to the suspect's immediate family (Health and Safety Code § 11470).
- (d) Vehicles, boats or airplanes owned by an "innocent owner," such as a common carrier with no knowledge of the suspected offense (Health and Safety Code § 11490).
- (e) Any property when the associated activity involves the possession of marijuana or related paraphernalia that is permissible under the Control, Regulate and Tax Adult Use of Marijuana Act (Health and Safety Code § 11362.1).

#### **606.4 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS**

When property or cash subject to this policy is seized, the officer making the seizure should ensure compliance with the following:

- (a) Complete applicable seizure forms and present the appropriate copy to the person from whom the property is seized. If cash or property is seized from more than one person, a separate copy must be provided to each person, specifying the items seized. When property is seized and no one claims an interest in the property, the officer must leave the copy in the place where the property was found, if it is reasonable to do so.
- (b) Complete and submit a report and original seizure forms within 24 hours of the seizure, if practicable.
- (c) Forward the original seizure forms and related reports to the forfeiture reviewer within two days of seizure.

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The officer will book seized property as evidence with the notation in the comment section of the property form, "Seized Subject to Forfeiture." Property seized subject to forfeiture should be booked on a separate property form. No other evidence from the case should be booked on this form.

Photographs should be taken of items seized, particularly cash, jewelry and other valuable items.

Officers who suspect property may be subject to seizure but are not able to seize the property (e.g., the property is located elsewhere, the whereabouts of the property is unknown, it is real estate, bank accounts, non-tangible assets) should document and forward the information in the appropriate report to the forfeiture reviewer.

#### **606.5 MAINTAINING SEIZED PROPERTY**

The Property Office Supervisor is responsible for ensuring compliance with the following:

- (a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition.
- (b) All property received for forfeiture is checked to determine if the property has been stolen.
- (c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or the person with an ownership interest.
- (d) Property received for forfeiture is not used unless the forfeiture action has been completed.

#### **606.6 DISPOSITION OF FORFEITED PROPERTY**

Forfeited funds distributed under Health and Safety Code § 11489 et seq. shall only be used for purposes allowed by law, but in no case shall a peace officer's employment or salary depend upon the level of seizures or forfeitures he/she achieves (Health and Safety Code § 11469).

The Department may request a court order so that certain uncontaminated science equipment is relinquished to a school or school district for science classroom education in lieu of destruction (Health and Safety Code § 11473; Health and Safety Code § 11473.5).

##### **606.6.1 RECEIVING EQUITABLE SHARES**

When participating in a joint investigation with a federal agency, the Clovis Police Department shall not receive an equitable share from the federal agency of all or a portion of the forfeiture proceeds absent either a required conviction under Health and Safety Code § 11471.2 or the flight, death or willful failure to appear of the defendant. This does not apply to forfeited cash or negotiable instruments of \$40,000 or more.

***Asset Forfeiture***

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**606.7 CLAIM INVESTIGATIONS**

An investigation shall be made as to any claimant of a vehicle, boat or airplane whose right, title, interest or lien is on the record in the Department of Motor Vehicles or in an appropriate federal agency. If investigation reveals that any person, other than the registered owner, is the legal owner, and that ownership did not arise subsequent to the date and time of arrest or notification of the forfeiture proceedings or seizure of the vehicle, boat or airplane, notice shall be made to the legal owner at his/her address appearing on the records of the Department of Motor Vehicles or the appropriate federal agency (Health and Safety Code § 11488.4).

## **Confidential Informants**

### **608.1 PURPOSE AND SCOPE**

In many instances, a successful investigation cannot be conducted without the use of confidential informants. To protect the integrity of the Clovis Police Department and the officers using informants, it shall be the policy of this department to take appropriate precautions by developing sound informant policies.

### **608.2 INFORMANT FILE SYSTEM**

The Narcotics Unit Supervisor or his/her designee shall be responsible for maintaining Informant files. A separate file shall be maintained on each confidential informant.

#### **608.2.1 FILE SYSTEM PROCEDURE**

Each file shall be coded with an assigned informant control number. An informant history shall be prepared to correspond to each informant file and include the following information:

- (a) Informant's name and/or aliases
- (b) Date of birth
- (c) Physical description: height, weight, hair color, eye color, race, sex, scars, tattoos or other distinguishing features
- (d) Current home address and telephone numbers
- (e) Current employer(s), position, address(es) and telephone numbers
- (f) Vehicles owned and registration information
- (g) Places frequented
- (h) Informant's photograph
- (i) Briefs of information provided by the informant and his or her subsequent reliability. If an informant is determined to be unreliable, the informant's file is marked as "Unreliable"
- (j) Name of officer initiating use of the informant
- (k) Signed informant agreement
- (l) Update on active or inactive status of informant

The informant files shall be maintained in a secure area within the Narcotics Unit. These files shall be used to provide a source of background information about the informant, enable review and evaluation of information given by the informant, and minimize incidents that could be used to question the integrity of detectives or the reliability of the confidential informant.

Access to the informant files shall be restricted to the Chief of Police, a Division Commander, the Narcotics Unit Supervisor, or their designees.

# Clovis Police Department

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### *Confidential Informants*

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#### **608.3 USE OF INFORMANTS**

Before using an individual as a confidential informant, an officer must receive approval from the Narcotics Unit Supervisor. The officer shall compile sufficient information through a background investigation in order to determine the reliability and credibility of the individual.

##### **608.3.1 JUVENILE INFORMANTS**

The use of juvenile informants under the age of 13-years is prohibited. Except as provided for in the enforcement of the Tobacco Enforcement Act, Business & Professions Code §§ 22950, et seq., the use of any juvenile informant between the ages of 13 and 18-years is only authorized by court order obtained pursuant to Penal Code § 701.5.

For purposes of this policy, a "juvenile informant" means any juvenile who participates, on behalf of this department, in a prearranged transaction or series of prearranged transactions with direct face-to-face contact with any party, when the juvenile's participation in the transaction is for the purpose of obtaining or attempting to obtain evidence of illegal activity by a third party and where the juvenile is participating in the transaction for the purpose of reducing or dismissing a pending juvenile petition against the juvenile.

#### **608.4 GUIDELINES FOR HANDLING CONFIDENTIAL INFORMANTS**

All confidential informants are required to sign and abide by the provisions of the departmental Informant Agreement. The officer using the confidential informant shall discuss each of the provisions of the agreement with the confidential informant.

Details of the agreement are to be approved in writing by the unit supervisor before being finalized with the confidential informant.

##### **608.4.1 RELATIONSHIPS WITH CONFIDENTIAL INFORMANTS**

No member of the Clovis Police Department shall knowingly maintain a social relationship with a confidential informant while off duty, or otherwise become intimately involved with a confidential informant. Members of the Clovis Police Department shall neither solicit nor accept gratuities nor engage in any private business transaction with a confidential informant.

To maintain officer/informant integrity, the following must be adhered to:

- (a) Officers shall not withhold the identity of an informant from their superiors
- (b) Identities of informants shall otherwise be kept confidential
- (c) Criminal activity by informants shall not be condoned
- (d) Informants shall be told they are not acting as police officers, employees or agents of the Clovis Police Department, and that they shall not represent themselves as such
- (e) The relationship between officers and informants shall always be ethical and professional
- (f) Social contact shall be avoided unless necessary to conduct an official investigation, and only with prior approval of the Narcotics Unit supervisor

### ***Confidential Informants***

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- (g) Officers shall not meet with informants of the opposite sex in a private place unless accompanied by at least one additional officer or with prior approval of the Narcotics Unit Supervisor. Officers may meet informants of the opposite sex alone in an occupied public place such as a restaurant. When contacting informants of either sex for the purpose of making payments officers shall arrange for the presence of another officer, whenever possible
- (h) In all instances when department funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses

#### **608.5 NARCOTICS INFORMANT PAYMENT PROCEDURES**

The potential payment of large sums of money to any confidential informant must be done in a manner respecting public opinion and scrutiny. Additionally, to maintain a good accounting of such funds requires a strict procedure for disbursements.

##### **608.5.1 PAYMENT PROCEDURE**

The amount of funds to be paid to any confidential informant will be evaluated against the following criteria:

- The extent of the informant's personal involvement in the case
- The quality of the violator arrested
- The amount of assets seized
- The quantity of the drugs seized
- The informant's previous criminal activity
- The level of risk taken by the informant

The Narcotics Unit Supervisor will discuss the above factors with the Enforcement Division Commander and arrive at a recommended level of payment that will be subject to the approval of the Chief of Police. The amount of payment will be based on a percentage of the current market price for the drugs or other contraband being sought, not to exceed 15-percent.

##### **608.5.2 CASH DISBURSEMENT POLICY**

The following establishes a cash disbursement policy for confidential informants. No informant will be told in advance or given an exact amount or percentage for services rendered.

- (a) When both assets and drugs have been seized, the confidential informant shall receive payment based upon overall value and the purchase price of the drugs seized not to exceed a maximum of \$150,000.
- (b) A confidential informant may receive a cash amount for each quantity of drugs seized whether or not assets are also seized, not to exceed a maximum of \$30,000.



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### *Confidential Informants*

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#### 608.5.3 PAYMENT PROCESS

A check shall be requested, payable to the case agent. The case number shall be recorded justifying the payment. The Chief of Police and the City Manager's signatures are required for disbursements over \$500. Payments \$500 and under may be paid in cash out of the Narcotics Unit Buy/Expense Fund. The Narcotics Unit Supervisor will be required to sign the voucher for amounts under \$500.

To complete the transaction with the confidential informant the case agent shall have the confidential informant initial the cash transfer form. The confidential informant will sign the form indicating the amount received, the date, and that the confidential informant is receiving funds in payment for information voluntarily rendered in the case. The Clovis Police Department case number shall be recorded on the cash transfer form. The form will be kept in the confidential informant's file.

If the payment amount exceeds \$500.00, a complete written statement of the confidential informant's involvement in the case shall be placed in the confidential informant's file. This statement shall be signed by the confidential informant verifying the statement as a true summary of his/her actions in the case(s).

Each confidential informant receiving a cash payment shall be informed of his or her responsibility to report the cash to the Internal Revenue Service (IRS) as income.

#### 608.5.4 REPORTING OF PAYMENTS

Each confidential informant receiving a cash payment shall be informed of his/her responsibility to report the cash to the Internal Revenue Service (IRS) as income. If funds distributed exceed \$600 in any reporting year, the confidential informant should be provided IRS Form 1099 (26 CFR § 1.6041-1). If such documentation or reporting may reveal the identity of the confidential informant and by doing so jeopardize any investigation, the safety of peace officers or the safety of the confidential informant (26 CFR § 1.6041-3), then IRS Form 1099 should not be issued.

In such cases, the confidential informant shall be provided a letter identifying the amount he/she must report on a tax return as "other income" and shall be required to provide a signed acknowledgement of receipt of the letter. The completed acknowledgement form and a copy of the letter shall be retained in the confidential informant's file.

## Unmanned Aerial System (UAS) Operations

### 613.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of an unmanned aerial system (UAS) and for the storage, retrieval and dissemination of images and data captured by the UAS.

#### 613.1.1 DEFINITIONS

Definitions related to this policy include:

**Unmanned Aerial System (UAS)** - An unmanned aircraft of any type that is capable of sustaining directed flight, whether preprogrammed or remotely controlled (commonly referred to as an unmanned aerial vehicle (UAV)), and all of the supporting or attached systems designed for gathering information through imaging, recording or any other means.

### 613.2 POLICY

Unmanned aerial systems may be utilized to enhance the department's mission of protecting lives and property when other means and resources are not available or are less effective. Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations. This policy incorporates by reference, Resolution #18-77 and the City of Clovis UAS policy.

### 613.3 PRIVACY

The use of the UAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and observers shall adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure). Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during UAS operations.

### 613.4 PROGRAM COORDINATOR

The Chief of Police will appoint a program coordinator who will be responsible for the management of the UAS program. The program coordinator will ensure that policies and procedures conform to current laws, regulations and best practices and will have the following additional responsibilities:

- Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current.
- Ensuring that all authorized operators and required observers have completed all required FAA and department-approved training in the operation, applicable laws, policies and procedures regarding use of the UAS.
- Developing uniform protocol for submission and evaluation of requests to deploy a UAS, including urgent requests made during ongoing or emerging incidents.

## Unmanned Aerial System (UAS) Operations

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Deployment of a UAS shall require written authorization of the Chief of Police or the authorized designee, depending on the type of mission.

- Developing protocol for conducting criminal investigations involving a UAS, including documentation of time spent monitoring a subject.
- Implementing a system for public notification of UAS deployment.
- Developing an operational protocol governing the deployment and operation of a UAS including, but not limited to, safety oversight, use of visual observers, establishment of lost link procedures and secure communication with air traffic control facilities.
- Developing a protocol for fully documenting all missions.
- Developing a UAS inspection, maintenance and record-keeping protocol to ensure continuing airworthiness of a UAS, up to and including its overhaul or life limits.
- Developing protocols to ensure that all data intended to be used as evidence are accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, authenticity certificates and date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.
- Developing protocols that ensure retention and purge periods are maintained in accordance with established records retention schedules.
- Facilitating law enforcement access to images and data captured by the UAS.
- Recommending program enhancements, particularly regarding safety and information security.
- Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Chief of Police.

### **613.5 USE OF UAS**

Only authorized operators who have completed the required training shall be permitted to operate the UAS.

Use of vision enhancement technology (e.g., thermal and other imaging equipment not generally available to the public) is permissible in viewing areas only where there is no protectable privacy interest or when in compliance with a search warrant or court order. In all other instances, legal counsel should be consulted.

UAS operations should only be conducted during daylight hours and a UAS should not be flown over populated areas without FAA approval.

### **613.6 PROHIBITED USE**

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.

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### *Unmanned Aerial System (UAS) Operations*

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- To target a person based solely on individual characteristics, such as, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation.
- To harass, intimidate or discriminate against any individual or group.
- To conduct personal business of any type.

The UAS shall not be weaponized.

#### **613.7 RETENTION OF UAS DATA**

Data collected by the UAS shall be retained as provided in the established records retention schedule and/or as provided in the City of Clovis UAS policy.

## **Chapter 7 - Equipment**

## Department Owned and Personal Property

### 700.1 PURPOSE AND SCOPE

Department employees are expected to properly care for department property assigned or entrusted to them. Employees may also suffer occasional loss or damage to personal or department property while performing their assigned duty. Certain procedures are required depending on the loss and ownership of the item.

### 700.2 CARE OF DEPARTMENTAL PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of department property assigned or entrusted to them. An employee's intentional or negligent abuse or misuse of department property may lead to discipline including, but not limited to the cost of repair or replacement.

- (a) Employees shall promptly report through their chain of command, any loss, damage to, or unserviceable condition of any department issued property or equipment assigned for their use.
- (b) The use of damaged or unserviceable department property should be discontinued as soon as practical and replaced with comparable Department property as soon as available and following notice to a supervisor.
- (c) Except when otherwise directed by competent authority or required by exigent circumstances, department property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed.
- (d) Department property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.

### 700.3 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage or loss of personal property must be made on the proper form. This form is submitted to the employee's immediate supervisor. The supervisor may require a separate written report of the loss or damage.

The supervisor shall direct a memo to the appropriate Division Commander, which shall include the results of his/her investigation and whether the employee followed proper procedures. The supervisor's report shall address whether reasonable care was taken to prevent the loss or damage.

Upon review by staff and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the Chief of Police who will then forward the claim to the Finance Department.

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### *Department Owned and Personal Property*

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The Department will not replace or repair luxurious or overly expensive items (jewelry, exotic equipment, etc.) that are not reasonably required as a part of work.

#### **700.3.1 REPORTING REQUIREMENT**

A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

#### **700.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER**

Officers and other employees intentionally or unintentionally may cause damage to the real or personal property of another while performing their duties. Any employee who damages or causes to be damaged any real or personal property of another while performing any law enforcement functions, regardless of jurisdiction, shall report it as provided below.

- (a) A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.
- (b) A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

#### **700.4.1 DAMAGE BY PERSON OF ANOTHER AGENCY**

If employees of another jurisdiction cause damage to real or personal property belonging to the City, it shall be the responsibility of the employee present or the employee responsible for the property to make a verbal report to his/her Immediate supervisor as soon as circumstances permit. The employee shall submit a written report before going off duty or as otherwise directed by the supervisor.

These written reports, accompanied by the supervisor's written report, shall promptly be forwarded to the appropriate Division Commander.

## Personal Communication Devices

### 702.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices, whether issued or funded by the Department or personally owned, while on-duty or when used for authorized work-related purposes.

This policy generically refers to all such devices as Personal Communication Devices (PCDs) but is intended to include all mobile telephones, personal digital assistants (PDAs), wireless capable tablets and similar wireless two-way communications and/or portable Internet access devices. PCD use includes, but is not limited to, placing and receiving calls, text messaging, blogging and microblogging, emailing, using video or camera features, playing games and accessing sites or services on the Internet.

### 702.2 POLICY

The Clovis Police Department allows members to utilize department-issued or funded PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations. Any PCD used while on-duty, or used off-duty in any manner reasonably related to the business of the Department, will be subject to monitoring and inspection consistent with the standards set forth in this policy.

The inappropriate use of a PCD while on-duty may impair officer safety. Additionally, members are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the member and the member's PCD records to civil or criminal discovery or disclosure under applicable public records laws.

Members who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory personnel.

### 702.3 PRIVACY POLICY

Employees shall have no expectation of privacy with regard to any communication made with or stored in or through PCDs issued or funded by the Department and shall have no expectation of privacy as to their location should the device be equipped with location detection capabilities. There is absolutely no expectation of privacy to the use of any department-provided or -funded PCD, computer, Internet service, telephone service or other wireless service while on-duty regardless of any of privacy that the employee might otherwise have in any communication, including the content of any such communication. Communications or data reception on personal, password-protected, web-based e-mail accounts and any other services are subject to monitoring if department equipment is used or the email or other device is accessed while on-duty.

In accordance with this policy, supervisors are authorized to conduct an administrative search of electronic files without prior notice, consent or a search warrant, on department-issued, department-funded, or personally owned PCDs that have been used to conduct department-



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### *Personal Communication Devices*

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related business. Administrative searches can take place for work-related purposes that may be unrelated to investigations of employee misconduct. As practicable, such administrative searches will be done in the presence of the affected employee. Prior to conducting any search of personally owned devices, supervisors shall consult with the Chief of Police. All such searches shall be fully documented in a written report.

#### **702.3.1 CALIFORNIA ELECTRONIC COMMUNICATIONS PRIVACY ACT (CALECPA)**

No member is authorized to be the sole possessor of a department-issued PCD. Department-issued PCDs can be retrieved, reassigned, accessed or used by any member as directed by a supervisor without notice. Member use of a department-issued PCD and use of a personal PCD at work or for work-related business constitutes specific consent for access for department purposes. Prior to conducting an administrative search of a PCD, supervisors should consult legal counsel to ensure access is consistent with CalECPA (Penal Code § 1546; Penal Code § 1546.1).

#### **702.4 DEPARTMENT-ISSUED PCD**

Depending on a member's assignment and the needs of the position, the Department may, at its discretion, issue or fund a PCD. Department-issued or funded PCDs are provided as a convenience to facilitate on-duty performance only. Such devices and the associated telephone number shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

#### **702.5 PERSONALLY OWNED PCD**

Members may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:

- (a) Permission to carry a personally owned PCD may be revoked if it is used contrary to provisions of this policy.
- (b) The Department accepts no responsibility for loss of or damage to a personally owned PCD.
- (c) The PCD and any associated services shall be purchased, used and maintained solely at the member's expense.
- (d) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications). Members will have a reduced expectation of privacy when using a personally owned PCD in the workplace and have no expectation of privacy with regard to any department business-related communication.
  - 1. Members may use personally owned PCDs on-duty for routine administrative work as authorized by the Chief of Police.
- (e) The device shall not be utilized to record or disclose any business-related information, including photographs, video or the recording or transmittal of any information or

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material obtained or made accessible as a result of employment with the Department, without the express authorization of the Chief of Police or the authorized designee.

- (f) Use of a personally owned PCD while at work or for work-related business constitutes consent for the Department to access the PCD to inspect and copy data to meet the needs of the Department, which may include litigation, public records retention and release obligations and internal investigations. If the PCD is carried on-duty, members will provide the Department with the telephone number of the device.
- (g) All work-related documents, emails, photographs, recordings or other public records created or received on a member's personally owned PCD should be transferred to the Clovis Police Department and deleted from the member's PCD as soon as reasonably practicable but no later than the end of the member's shift.

Except with prior express authorization from their supervisor, members are not obligated or required to carry, access, monitor or respond to electronic communications using a personally owned PCD while off-duty. If a member is in an authorized status that allows for appropriate compensation consistent with policy or existing memorandum of understanding or collective bargaining agreements, or if the member has prior express authorization from his/her supervisor, the member may engage in business-related communications. Should members engage in such approved off-duty communications or work, members entitled to compensation shall promptly document the time worked and communicate the information to their supervisors to ensure appropriate compensation. Members who independently document off-duty department-related business activities in any manner shall promptly provide the Department with a copy of such records to ensure accurate record keeping.

#### **702.6 USE WHILE DRIVING**

The use of a PCD while driving can adversely affect safety, cause unnecessary distractions and present a negative image to the public. Officers operating emergency vehicles should restrict the use of these devices to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location to use the PCD.

Members who are operating department vehicles that are not authorized emergency vehicles shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use. In an emergency, a wireless phone may be used to place an emergency call to the Department or other emergency services agency (Vehicle Code § 23123; Vehicle Code § 23123.5). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

## Vehicle Maintenance

### 704.1 PURPOSE AND SCOPE

Employees are responsible for assisting in maintaining Department vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance.

### 704.2 DEFECTIVE VEHICLES

When a department vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. Proper documentation shall be promptly completed by the employee who first becomes aware of the defective condition, describing the correction needed. The paperwork shall be promptly forwarded to vehicle maintenance for repair.

### 704.3 VEHICLE EQUIPMENT

Certain items shall be maintained in all department vehicles for emergency purposes and to perform routine duties.

#### 704.3.1 PATROL VEHICLES

Officers shall inspect the patrol vehicle at the beginning of the shift and ensure that the following equipment, at a minimum, is present in the vehicle:

- Emergency road flares
- Sticks of yellow crayon or white chalk
- One roll of Crime Scene Barricade Tape
- First aid kit, CPR mask
- Blanket
- Hazardous Materials Emergency Response Handbook
- Evidence collection kit
- Fire Extinguisher
- Rollatape

#### 704.3.2 UNMARKED VEHICLES

An employee driving unmarked department vehicles shall ensure that the minimum following equipment is present in the vehicle:

- Emergency road flares
- Roll Crime Scene Barricade Tape
- First aid kit, CPR mask

## *Vehicle Maintenance*

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### **704.4 VEHICLE REFUELING**

Absent emergency conditions or supervisor approval, officers driving patrol vehicles shall not place a vehicle in service that has less than one-half tank of fuel. Vehicles shall only be refueled at the authorized location.

### **704.5 WASHING OF VEHICLES**

All units shall be kept clean at all times and weather conditions permitting, shall be washed as necessary to enhance their appearance.

Officers in patrol shall obtain clearance from the dispatcher before responding to the car wash. Only one marked unit should be at the car wash at the same time unless otherwise approved by a supervisor.

Employees using a vehicle shall remove any trash or debris at the end of their shift. Confidential material should be placed in a designated receptacle provided for the shredding of this matter.

### **704.6 PROFESSIONAL STAFF USE**

Non-sworn employees using marked vehicles shall ensure all weapons are removed from vehicles before going into service. Non-sworn employees shall also prominently display the "out of service" placards or lightbar covers at all times. Non-sworn employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

## **Chapter 8 - Support Services**

## Crime Analysis

### 800.1 PURPOSE AND SCOPE

Crime analysis should provide currently useful information to aid operational personnel in meeting their tactical crime control and prevention objectives by identifying and analyzing methods of operation of individual criminals, providing crime pattern recognition, and providing analysis of data from field interrogations and arrests. Crime analysis can be useful to the Department's long range planning efforts by providing estimates of future crime trends and assisting in the identification of enforcement priorities.

### 800.2 DATA SOURCES

Crime analysis data is extracted from many sources including, but not limited to:

- Crime reports
- Field Interview cards
- Parole and Probation records
- Computer Aided Dispatch data
- Statewide Integrated Traffic Reporting System (SWITRS)

### 800.3 CRIME ANALYSIS FACTORS

The following minimum criteria should be used in collecting data for Crime Analysis:

- Frequency by type of crime
- Geographic factors
- Temporal factors
- Victim and target descriptors
- Suspect descriptors
- Suspect vehicle descriptors
- Modus operandi factors
- Physical evidence information

### 800.4 CRIME ANALYSIS DISSEMINATION

For a crime analysis system to function effectively, information should be disseminated to the appropriate units or persons on a timely basis. Information that is relevant to the operational and tactical plans of specific line units should be sent directly to them. Information relevant to the development of the Department's strategic plans should be provided to the appropriate staff units. When information pertains to tactical and strategic plans, it should be provided to all affected units.

## Communication Operations

### 802.1 PURPOSE AND SCOPE

The basic function of the communications system is to satisfy the immediate information needs of the law enforcement agency in the course of its normal daily activities and during emergencies. The latter situation places the greatest demands upon the communications system and tests the capability of the system to fulfill its functions. Measures and standards of performance are necessary to assess the effectiveness with which any department, large or small, uses available information technology in fulfillment of its missions.

#### 802.1.1 FCC COMPLIANCE

Clovis Police Department radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and guidelines.

### 802.2 COMMUNICATION OPERATIONS

This department provides 24-hour telephone service to the public for information or assistance that may be needed in emergencies. The ability of citizens to telephone quickly and easily for emergency service is critical. This department provides access to the 911 system for a single emergency telephone number. This department has two-way radio capability providing continuous communication between Communications and field staff.

#### 802.2.1 COMMUNICATIONS LOG

It shall be the responsibility of Communications to record all relevant information on calls for criminal and non-criminal service or self-initiated activity. Employees shall attempt to elicit as much information as possible to enhance the safety of the officer and assist in anticipating conditions to be encountered at the scene. Desirable information would include, at a minimum, the following:

- Incident number
- Date and time of request
- Name and address of complainant, if possible
- Type of incident reported
- Location of incident reported
- Identification of officer(s) assigned as primary and backup
- Time of dispatch
- Time of the officer's arrival
- Time of officer's return to service
- Disposition or status of reported incident

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#### **802.3 RADIO COMMUNICATIONS**

Operations are more efficient and officer safety is enhanced when dispatchers, supervisors, and fellow officers know the status of officers, their locations and the nature of cases.

##### **802.3.1 OFFICER IDENTIFICATION**

Identification systems are based on factors such as beat assignment and officer identification numbers. Employees should use the entire call sign when initiating communication with the dispatcher. The use of the call sign allows for a brief pause so that the dispatcher can acknowledge the appropriate unit. Employees initiating communication with other agencies shall use their entire call sign. This requirement does not apply to continuing conversation between the mobile unit and dispatcher once the mobile unit has been properly identified.



## Property and Evidence

### 804.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and those persons authorized to remove and/or destroy property.

### 804.2 DEFINITIONS

**Property** - Includes all items of evidence, items taken for safekeeping and found property.

**Evidence** - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes photographs and latent fingerprints.

**Safekeeping** - Includes the following types of property:

- Property obtained by the Department for safekeeping such as a firearm
- Personal property of an arrestee not taken as evidence
- Property taken for safekeeping under authority of a law (e.g., Welfare and Institutions Code § 5150 (mentally ill persons))

**Found property** - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

### 804.3 PROPERTY HANDLING

Any employee who first comes into possession of any property shall retain such property in his/her possession until it is properly tagged and placed in the designated property locker, or storage room, or Crime Scene Unit (C.S.U) lab. Care shall be taken to maintain the chain of custody for all evidence.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property and evidence report form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items. Officers and/or employees releasing property/evidence shall photocopy the owner's valid identification and shall take a photograph of the owner with the property being released. These documents will be attached to the property and evidence report (hard card in the property room) for documentation.

#### 804.3.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the employee going off-duty unless otherwise approved by a supervisor. Employees booking property shall observe the following guidelines:

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### *Property and Evidence*

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- (a) Complete the property form in QueTel describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings. If QueTel is off line the property and evidence shall be stored in an approved secured evidence locker until QueTel comes back online.
- (b) Mark each item of evidence with the booking employee's initials and the date booked using the appropriate method so as not to deface or damage the value of the property.
- (c) Complete an evidence/property tag and attach it to each package or envelope in which the property is stored. If the barcode/label printer is not working, fill out the evidence tag stamp on the packaging or attach a completed evidence/property tag (if applicable) to the packaging and notify property room personnel that a barcode/label is needed for the item.
- (d)
- (e) When the property is too large to be placed in a locker, the item may be retained in a secure location such as the bike storage area, drying room, and the motorcycle yard. Notify property room personnel where the item was stored.
- (f) Property and evidence shall only be stored in a department approved location.

#### 804.3.2 NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs shall be booked separately using a separate property record. Paraphernalia as defined by Health & Safety Code § 11364 shall also be booked separately.

The officer seizing the narcotics and dangerous drugs shall place them in an approved secure locker.

#### 804.3.3 EXPLOSIVES

Officers who encounter a suspected explosive device shall promptly notify their immediate supervisor or the Watch Commander. The EOD Unit will be called to handle explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

Explosives will not be retained in the police facility. Only fireworks that are considered stable and safe and road flares or similar signaling devices may be booked into property. All such items shall be stored in proper containers and in an area designated for the storage of flammable materials. The property and evidence technician is responsible for any fireworks or signaling devices that are no longer needed as evidence or are not retained as evidence. Those items will be turned over to the E.O.D. unit for destruction.

#### 804.3.4 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

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- (a) Bodily fluids such as blood or semen stains shall be air dried prior to booking.
- (b) License plates found not to be stolen or connected with a known crime, should be released directly to the property and evidence technician, or placed in the designated container for return to DMV. No formal property booking process is required for license plates.
- (c) All bicycles and bicycle frames require a property record. Property tags will be securely attached to each bicycle or bicycle frame. The property shall be placed in the bicycle storage area.
- (d) All cash shall be counted in the presence of another officer and the envelope initialed by the booking officer and the witness. For cash in the amount of \$5,000 or more, the Watch Commander or an Officer of the rank of Corporal or above shall be the verifying officer (Second Counter).
- (e)

City property, unless connected to a known criminal case, should be released directly to the appropriate City department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

#### **804.3.5 RELINQUISHED FIREARMS**

Individuals who relinquish firearms pursuant to the provisions of Penal Code § 29850 shall be issued a receipt that describes the firearm, the serial number or other identification of the firearm at the time of relinquishment (Penal Code § 29810).

Relinquished firearms shall be retained for 30 days, after which time they may be destroyed, retained, sold or otherwise transferred, unless (Penal Code § 29810):

- (a) A certificate is issued by a judge of a court of record or the District Attorney stating the firearms shall be retained; or
- (b) The convicted person provides written notice of an intent to appeal the conviction that necessitated the relinquishment; or
- (c) The Automated Firearms System indicates that the firearm was reported lost or stolen.
  - 1. In such event, the firearm shall be restored to the lawful owner as soon as it is no longer needed as evidence, the lawful owner has identified the weapon and provided proof of ownership, and the Department has complied with the requirements of Penal Code § 33850 et seq.

The Property Officer shall ensure the Records Supervisor is notified of the relinquished firearm for purposes of updating the Automated Firearms System and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ) (See the Records and Public Services Policy).

#### **804.4 PACKAGING OF PROPERTY**

Certain items require special consideration and shall be booked separately as follows:

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- (a) Narcotics and dangerous drugs
- (b) Firearms (ensure they are unloaded and made safe (using a zip tie) and booked separately from ammunition
- (c) Property with more than one known owner
- (d) Paraphernalia as described in Health and Safety Code § 11364
- (e) Fireworks
- (f) Contraband

### **804.4.1 PACKAGING CONTAINER**

Employees shall package all property, except narcotics and dangerous drugs in a suitable container available for its size. Knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles if they need to be tested, processed or retained as evidence. Photograph and destroy syringe(s) if no testing is necessary and there is no need to retain as evidence.

A barcode/label(s), printed from QueTel, shall be securely attached to the outside of all items or group of items packaged together.

### **804.4.2 PACKAGING NARCOTICS**

The officer seizing narcotics and dangerous drugs shall retain such property in their possession until it is properly weighed, packaged, tagged, and placed in a secure evidence locker. Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected narcotics. If conducted, the results of this test shall be included in the officer's report.

Narcotics and dangerous drugs shall be packaged in a Fresno County Sheriff's Department Evidence Envelope available in the report room. The booking officer shall initial the sealed envelope over the tamper proof evidence tape. Narcotics and dangerous drugs shall not be packaged with other property.

A barcode/label shall be attached to the outside of the packaging.

### **804.5 RECORDING OF PROPERTY**

The property and evidence technician receiving custody of evidence or property shall make the appropriate entries in QueTel and record his/her signature, the date and time the property was received and where the property will be stored on the property control card and QueTel.

A property number shall be obtained for each item or group of items. This number shall be recorded on the property tag and the property control card.

Any changes in the location of property held by the Clovis Police Department shall be noted on the property and evidence report form, (hard card) located in the property room and in QueTel.

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**804.6 PROPERTY CONTROL**

Each time the Property Officer receives property or releases property to another person, he/she shall enter this information on the property control card and QueTel. Officers desiring property/evidence for court shall contact the Property Officer at least one day prior to the court day.

**804.6.1 RESPONSIBILITY OF OTHER PERSONNEL**

Every time property is released or received, an appropriate entry on the property and evidence shall be completed to maintain the chain of possession. No property or evidence is to be released without first receiving written authorization from either the investigation officer, detective, a supervisor, the District Attorney's Office, or via a court order.

Request for analysis for items other than narcotics or drugs shall be completed on the appropriate forms and submitted to the property and evidence technician and/or property room personnel. This request may be completed in QueTel at the time the property/evidence is booked by checking "Lab" in the "next activity" section and describing the analysis being requested in the "next activity notes" or a Physical Evidence Submission form (Lab) form may be filled out any time after booking of the property or evidence.

**804.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY**

The transporting employee will check the evidence out of property, indicating the date and time, location or facility where the evidence was taken and the request for laboratory analysis on the property and evidence report form (hard card) and in QueTel.

The property and evidence technician and/or property room personnel releasing the evidence must complete the required information on the property and evidence report form (hard card) and the evidence. Any related lab forms will be transported with the property to the examining laboratory.

**804.6.3 STATUS OF PROPERTY**

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to officers for investigative purposes, or for court, shall be noted on the property control card and in QueTel, stating the date, time and to whom released.

The Property Officer shall obtain the signature of the person to whom property is released, and the reason for release. Any employee receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded on the property control card and QueTel, indicating date, time, and the person who returned the property.

**804.6.4 AUTHORITY TO RELEASE PROPERTY**

The following persons may authorize the release of property that has been placed in the Property Room under the provisions of this manual.

- (a) The investigating officer, assigned investigator, or the investigator's supervisor
- (b) The Senior Property Technician, Property Technician, or his/her assistant

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- (c) Any person authorized by the Chief of Police
- (d) A magistrate
- (e) The District Attorney's Office

### **804.6.5 RELEASE OF PROPERTY**

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or detective and must conform to the items listed on the property form or must specify the specific item(s) to be released. Release of all property shall be documented on the property form.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

A Property Officer shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property form. After release of all property entered on the property control card, the card shall be forwarded to the Records and Public Services for filing with the case. If some items of property have not been released the property card will remain with the Property Office. Upon release, the proper entry shall be documented in the Property Log.

Under no circumstances shall any firearm be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 33865.

The Property Office Supervisor should also make reasonable efforts to determine whether the person is the subject of any court order preventing the person from possessing a firearm and if so, the firearm should not be released to the person while the order is in effect.

The Department is not required to retain any firearm or other deadly weapon longer than 180 days after notice has been provided to the owner that such firearm or other deadly weapon is available for return. At the expiration of such period, the firearm or other deadly weapon may be processed for disposal in accordance with applicable law (Penal Code § 33875).

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#### **804.6.6 DISPUTED CLAIMS TO PROPERTY**

Occasionally more than one party may claim an interest in property being held by the Department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or other undisputed right to the involved property.

All parties should be advised that their claims are civil and in extreme situations, legal counsel for the Department may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

#### **804.6.7 CONTROL OF NARCOTICS AND DANGEROUS DRUGS**

The Investigations will be responsible for the storage, control and destruction of all narcotics and dangerous drugs coming into the custody of this department, including paraphernalia as described in Health and Safety Code § 11364.

#### **804.6.8 RELEASE OF FIREARM IN DOMESTIC VIOLENCE MATTERS**

Within five days of the expiration of a restraining order issued in a domestic violence matter that required the relinquishment of a firearm, the Property Officer shall return the weapon to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met unless the firearm is determined to be stolen, evidence in a criminal investigation or the individual is otherwise prohibited from possessing a firearm (Family Code § 6389(g); Penal Code § 33855).

#### **804.6.9 RELEASE OF FIREARMS AND WEAPONS IN MENTAL ILLNESS MATTERS**

Firearms and other deadly weapons confiscated from an individual detained for an evaluation by a mental health professional or subject to the provisions of Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 shall be released or disposed of as follows:

- (a) If a petition for a hearing regarding the return of the weapon has been initiated pursuant to Welfare and Institutions Code § 8102(c), the weapon shall be released or disposed of as provided by an order of the court. If the court orders a firearm returned, the firearm shall not be returned unless and until the person presents valid identification and written notification from the California Department of Justice (DOJ) which conforms to the provisions of Penal Code § 33865.
- (b) If no petition has been initiated pursuant to Welfare and Institutions Code § 8102(c) and the weapon is not retained as evidence, the Department shall make the weapon available for return. No firearm will be returned unless and until the person presents valid identification and written notification from the California DOJ which conforms to the provisions of Penal Code § 33865.
- (c) Unless the person contacts the Department to facilitate the sale or transfer of the firearm to a licensed dealer pursuant to Penal Code § 33870, firearms not returned should be sold, transferred, destroyed or retained as provided in Welfare and Institutions Code § 8102.

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### **804.6.10 RELEASE OF FIREARMS IN GUN VIOLENCE RESTRAINING ORDER MATTERS**

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order and in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

If the restrained person who owns the firearms or ammunition does not wish to have the firearm or ammunition returned, he/she is entitled to sell or transfer title to a licensed dealer, provided that the firearms or ammunition are legal to own or possess and the restrained person has right to title of the firearms or ammunition (Penal Code § 18120).

If a person other than the restrained person claims title to the firearms or ammunition surrendered pursuant to Penal Code § 18120 and the Clovis Police Department determines him/her to be the lawful owner, the firearms or ammunition shall be returned in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

Firearms and ammunition that are not claimed are subject to the requirements of Penal Code § 34000.

### **804.7 DISPOSITION OF PROPERTY**

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Property Officer shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.

#### **804.7.1 EXCEPTIONAL DISPOSITIONS**

The following types of property shall be destroyed or disposed of in the manner, and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances (Penal Code § 29300; Penal Code § 18010; Penal Code § 32750)
- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)
- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)
- Narcotics (Health and Safety Code § 11474 et seq.)
- Unclaimed, stolen or embezzled property (Penal Code § 1411)
- Destructive devices (Penal Code § 19000)
- Sexual assault evidence (Penal Code § 680(e))



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#### **804.7.2 UNCLAIMED MONEY**

If found or seized money is no longer required as evidence and remains unclaimed after three years, the Department shall cause a notice to be published each week for a period of two consecutive weeks in a local newspaper of general circulation (Government Code § 50050). Such notice shall state the amount of money, the fund in which it is held and that the money will become the property of the agency on a designated date not less than 45 days and not more than 60 days after the first publication (Government Code § 50051).

Any individual item with a value of less than \$15.00, or any amount if the depositor/owner's name is unknown, which remains unclaimed for a year or by order of the court, may be transferred to the general fund without the necessity of public notice (Government Code § 50055).

If the money remains unclaimed as of the date designated in the published notice, the money will become the property of this department to fund official law enforcement operations. Money representing restitution collected on behalf of victims shall either be deposited into the Restitution Fund or used for purposes of victim services.

#### **804.7.3 RETENTION OF BIOLOGICAL EVIDENCE**

The Property Office Supervisor shall ensure that no biological evidence held by the Department is destroyed without adequate notification to the following persons, when applicable:

- (a) The defendant
- (b) The defendant's attorney
- (c) The appropriate prosecutor and Attorney General
- (d) Any sexual assault victim
- (e) The Investigation Division supervisor

Biological evidence shall be retained for either a minimum period that has been established by law (Penal Code § 1417.9) or that has been established by the Property Office Supervisor, or until the expiration of any imposed sentence that is related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Department within 180 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the Investigation Division supervisor.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief of Police and the head of the applicable prosecutor's office.

Biological evidence or other crime scene evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations and shall be retained as required in Penal Code § 680. Even after expiration of an applicable statute of limitations, the Investigation Division supervisor should be consulted and the sexual assault victim shall be notified at least 60 days

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prior to the disposal (Penal Code § 680). Reasons for not analyzing biological evidence shall be documented in writing (Penal Code § 680.3).

#### **804.8 INSPECTIONS OF THE EVIDENCE ROOM**

- (a) On a monthly basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.
- (b) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the Chief of Police.
- (c) An annual audit of evidence held by the Department shall be conducted by a Division Commander (as appointed by the Chief of Police) not routinely or directly connected with evidence control, or any person designated by the Chief of Police.
- (d) Whenever a change is made in personnel who have access to the evidence room, the entry access code for that member shall be removed. The "E" key shall be taken from that member and verified as the assigned key number. The alarm code shall be changed the day a member is no longer assigned to Property and Evidence.

## **Records and Public Services**

### **806.1 PURPOSE AND SCOPE**

The Records Supervisor shall maintain the Department Records and Public Services Procedures Manual on a current basis to reflect the procedures being followed within the Records and Public Services. Policies and procedures that apply to all employees of this department are contained in this chapter.

#### **806.1.1 NUMERICAL FILING SYSTEM**

Case reports are filed numerically within the Records and Public Services by Records and Public Services personnel.

Reports are numbered commencing with the four digits of the current year followed by eight digits  
Ex: 2017-00000000. (Not a sequential number).

### **806.2 FILE ACCESS AND SECURITY**

All reports including, but not limited to, initial, supplemental, follow-up, evidence, and all reports critical to a case shall be maintained in a secure area within the Records and Public Services accessible only to authorized Records and Public Services personnel. Access to report files after hours or when records personnel are otherwise not available may be obtained through the Watch Commander.

Clovis Police Department employees shall not access, view or distribute, or allow anyone else to access, view or distribute any record, file or report, whether hard copy or electronic file format, except in accordance with department policy and with a legitimate law enforcement or business purpose or as otherwise permissible by law.

#### **806.2.1 REQUESTING ORIGINAL REPORTS**

Generally, original reports shall not be removed from the Records and Public Services. Should an original report be needed for any reason the requesting employee shall first obtain authorization from the Records Supervisor. All original reports removed from the Records and Public Services shall be recorded on the Report Check-Out Log which shall constitute the only authorized manner by which an original report may be removed from the Records and Public Services.

### **806.3 REQUISITION OF SUPPLIES**

**All personnel who are in need of supplies shall e-mail the request to the Supply Clerk in Records.**

### **806.4 DETERMINATION OF FACTUAL INNOCENCE**

In any case where a person has been arrested by officers of the Clovis Police Department and no accusatory pleading has been filed, the person arrested may petition the Department to destroy the related arrest records. Petitions should be forwarded to the Administration Supervisor. The Administration Supervisor should promptly contact the prosecuting attorney and request a written

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opinion as to whether the petitioner is factually innocent of the charges (Penal Code § 851.8). Factual innocence means the accused person did not commit the crime.

Upon receipt of a written opinion from the prosecuting attorney affirming factual innocence, the Administration Supervisor should forward the petition to the Investigations Supervisor and the City Attorney for review. After such review and consultation with the City Attorney, the Investigations Supervisor and the Administration Supervisor shall decide whether a finding of factual innocence is appropriate.

Upon determination that a finding of factual innocence is appropriate, the Administration Supervisor shall ensure that the arrest record and petition are sealed for later destruction and the required notifications are made to the California Department of Justice and other law enforcement agencies (Penal Code § 851.8).

The Administration Supervisor should respond to a petition with the Department's decision within 45 days of receipt. Responses should include only the decision of the Department, not an explanation of the analysis leading to the decision.

#### **806.5 ARREST WITHOUT FILING OF ACCUSATORY PLEADING**

The Patrol Division Commander should ensure a process is in place for when an individual is arrested and released and no accusatory pleading is filed so that the following occurs (Penal Code § 849.5; Penal Code § 851.6):

- (a) The individual is issued a certificate describing the action as a detention.
- (b) All references to an arrest are deleted from the arrest records of the Department and the record reflects only a detention.
- (c) The California DOJ is notified.

## Restoration of Firearm Serial Numbers

### 808.1 PURPOSE AND SCOPE

The primary purpose for restoring firearm serial numbers is to determine the prior owners or origin of the item from which the number has been recovered. Thus, property can be returned to rightful owners or investigations can be initiated to curb illegal trade of contraband firearms. The purpose of this plan is to develop standards, methodologies, and safety protocols for the recovery of obliterated serial numbers from firearms and other objects using procedures that are accepted as industry standards in the forensic community. All personnel who are involved in the restoration of serial numbers will observe the following guidelines. This policy complies with Penal Code § 11108.9.

### 808.2 PROCEDURE

Any firearm coming into the possession of the Clovis Police Department as evidence, found property, etc., where the serial numbers have been removed or obliterated will be processed in the following manner:

#### 808.2.1 PRELIMINARY FIREARM EXAMINATION

- (a) Always keep the muzzle pointed in a safe direction. Be sure the firearm is in an unloaded condition. This includes removal of the ammunition source (e.g., the detachable magazine, contents of the tubular magazine) as well as the chamber contents.
- (b) If the firearm is corroded shut or in a condition that would preclude inspection of the chamber contents, treat the firearm as if it is loaded. Make immediate arrangements for a firearms examiner or other qualified examiner to render the firearm safe.
- (c) Accurately record/document the condition of the gun when received. Note the positions of the various components such as the safeties, cylinder, magazine, slide, hammer, etc. Accurately record/document cylinder chamber and magazine contents. Package the ammunition separately.
- (d) If the firearm is to be processed for fingerprints or trace evidence, process before the serial number restoration is attempted. First record/document important aspects such as halos on the revolver cylinder face or other relevant evidence that might be obscured by the fingerprinting chemicals.

#### 808.2.2 PROPERTY BOOKING PROCEDURE

Any employee taking possession of a firearm with removed/obliterated serial numbers shall book the firearm into property following standard procedures. The employee booking the firearm shall indicate on the property form that serial numbers have been removed or obliterated.

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#### **808.2.3 OFFICER RESPONSIBILITY**

The Property Officer receiving a firearm when the serial numbers have been removed or obliterated shall arrange for the firearm to be transported to the crime lab for restoration and maintain the chain of evidence.

#### **808.2.4 DOCUMENTATION**

Case reports are prepared in order to document the chain of custody and the initial examination and handling of evidence from the time it is received/collected until it is released.

This report must include a record of the manner in which and/or from whom the firearm was received. This may appear on the request form or property form depending on the type of evidence.

#### **808.2.5 FIREARM TRACE**

After the serial number has been restored (or partially restored) by the criminalistics laboratory, the Property Officer will complete a Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Tracing Center (NTC) Obliterated Serial Number Trace Request Form (ATF 3312.1-OBL) and forward the form to the NTC in Falling Waters, West Virginia or enter the data into the ATF eTrace system.

#### **808.3 BULLET AND CASING IDENTIFICATION**

Exemplar bullets and cartridge cases from the firearm, depending upon acceptance criteria and protocol, may be submitted to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Integrated Ballistic Information Network (NIBIN) which uses the Integrated Ballistic Identification System (IBIS) technology to search the national database and compare with ballistic evidence recovered from other crime scenes.

## Records Maintenance and Release

### 810.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of department records. Protected information is separately covered in the Protected Information Policy.

### 810.2 POLICY

The Clovis Police Department is committed to providing public access to records in a manner that is consistent with the California Public Records Act (Government Code § 6250 et seq.).

### 810.3 CUSTODIAN OF RECORDS RESPONSIBILITIES

The Chief of Police shall designate a Custodian of Records. The responsibilities of the Custodian of Records include but are not limited to:

- (a) Managing the records management system for the Department, including the retention, archiving, release, and destruction of department public records.
- (b) Maintaining and updating the department records retention schedule including:
  - 1. Identifying the minimum length of time the Department must keep records.
  - 2. Identifying the department division responsible for the original record.
- (c) Establishing rules regarding the inspection and copying of department public records as reasonably necessary for the protection of such records.
- (d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing rules regarding the processing of subpoenas for the production of records.
- (f) Ensuring a current schedule of fees for public records as allowed by law is available (Government Code § 6253).
- (g) Determining how the department's website may be used to post public records in accordance with Government Code § 6253.
- (h) Ensuring that public records posted on the Department website meet the requirements of Government Code § 6253.10 including but not limited to posting in an open format where a record may be retrieved, downloaded, indexed, and searched by a commonly used internet search application.
- (i) Ensuring that a list and description, when applicable, of enterprise systems (as defined by Government Code § 6270.5) is publicly available upon request and posted in a prominent location on the Department's website.

### 810.4 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any department member who receives a request for any record shall route the request to the Custodian of Records or the authorized designee.

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#### 810.4.1 REQUESTS FOR RECORDS

Any member of the public, including the media and elected officials, may access unrestricted records of this department, during regular business hours by submitting a written and signed request that reasonably describes each record sought and paying any associated fees (Government Code § 6253).

The processing of requests for any record is subject to the following (Government Code § 6253):

- (a) The Department is not required to create records that do not exist.
- (b) Victims of an incident or their authorized representative shall not be required to show proof of legal presence in the United States to obtain department records or information. If identification is required, a current driver's license or identification card issued by any state in the United States, a current passport issued by the United States or a foreign government with which the United States has a diplomatic relationship or current Matricula Consular card is acceptable (Government Code § 6254.30).
- (c) Either the requested record or the reason for non-disclosure will be provided promptly, but no later than 10 days from the date of request, unless unusual circumstances preclude doing so. If more time is needed, an extension of up to 14 additional days may be authorized by the Custodian of Records or the authorized designee. If an extension is authorized, the Department shall provide the requester written notice that includes the reason for the extension and the anticipated date of the response.
  - 1. When the request does not reasonably describe the records sought, the Custodian of Records shall assist the requester in making the request focused and effective in a way to identify the records or information that would be responsive to the request including providing assistance for overcoming any practical basis for denying access to the records or information. The Custodian of Records shall also assist in describing the information technology and physical location in which the record exists (Government Code § 6253.1).
  - 2. If the record requested is available on the department website, the requester may be directed to the location on the website where the record is posted. If the requester is unable to access or reproduce the record, a copy of the record shall be promptly provided.
- (d) Upon request, a record shall be provided in an electronic format utilized by the Department. Records shall not be provided only in electronic format unless specifically requested (Government Code § 6253.9).
- (e) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.
  - 1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the department-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.



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- (f) If a record request is denied in whole or part, the requester shall be provided a written response that includes the statutory exemption for withholding the record or facts that the public interest served by nondisclosure outweighs the interest served by disclosure (Government Code § 6255). The written response shall also include the names, titles or positions of each person responsible for the denial.

#### **810.5 RELEASE RESTRICTIONS**

Examples of release restrictions include:

- (a) Personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver license record, motor vehicle record, or any department record, including traffic collision reports, are restricted except as authorized by the Department, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).
- (b) Social Security numbers (Government Code § 6254.29).
- (c) Personnel records, medical records, and similar records which would involve an unwarranted invasion of personal privacy except as allowed by law (Government Code § 6254; Penal Code § 832.7; Penal Code § 832.8; Evidence Code § 1043 et seq.).
  - 1. Peace officer personnel records that are deemed confidential shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order.
  - 2. The identity of any officer subject to any criminal or administrative investigation shall not be released without the consent of the involved officer, prior approval of the Chief of Police, or as required by law.
- (d) Victim information that may be protected by statutes, including victims of certain crimes who have requested that their identifying information be kept confidential, victims who are minors, and victims of certain offenses (e.g., sex crimes or human trafficking, Penal Code § 293). Addresses and telephone numbers of a victim or a witness to any arrested person or to any person who may be a defendant in a criminal action shall not be disclosed, unless it is required by law (Government Code § 6254; Penal Code § 841.5).
  - 1. Victims of certain offenses (e.g., domestic violence, sexual assault, stalking, human trafficking, adult abuse) or their representatives shall be provided, upon request and without charge, one copy of all incident report face sheets, one copy of all incident reports, or both, pursuant to the requirements and time frames of Family Code § 6228.
  - 2. Victims of sexual assault, upon written request, shall be provided a free copy of the initial crime report regardless of whether the report has been closed. Personal identifying information may be redacted (Penal Code § 680.2(b)).
- (e) Video or audio recordings created during the commission or investigation of the crime of rape, incest, sexual assault, domestic violence, or child abuse that depicts the

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face, intimate body part, or voice of a victim of the incident except as provided by Government Code § 6254.4.5.

- (f) Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved, or information that would endanger the successful completion of the investigation or a related investigation. This includes analysis and conclusions of investigating officers (Evidence Code § 1041; Government Code § 6254).
  - 1. Absent a statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code § 6254(f).
- (g) Local criminal history information including but not limited to arrest history and disposition, and fingerprints shall only be subject to release to those agencies and individuals set forth in Penal Code § 13300.
  - 1. All requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the District Attorney, City Attorney, or the courts pursuant to Penal Code § 1054.5.
- (h) Certain types of reports involving but not limited to child abuse and molestation (Penal Code § 11167.5), elder and dependent abuse (Welfare and Institutions Code § 15633), and juveniles (Welfare and Institutions Code § 827).
- (i) Sealed autopsy and private medical information concerning a murdered child with the exceptions that allow dissemination of those reports to law enforcement agents, prosecutors, defendants, or civil litigants under state and federal discovery laws (Code of Civil Procedure § 130).
- (j) Information contained in applications for licenses to carry firearms or other files that indicates when or where the applicant is vulnerable or which contains medical or psychological information (Government Code § 6254).
- (k) Traffic collision reports (and related supplemental reports) shall be considered confidential and subject to release only to the California Highway Patrol, Department of Motor Vehicles (DMV), other law enforcement agencies, and those individuals and their authorized representatives set forth in Vehicle Code § 20012.
- (l) Any record created exclusively in anticipation of potential litigation involving this department (Government Code § 6254).
- (m) Any memorandum from legal counsel until the pending litigation has been adjudicated or otherwise settled (Government Code § 6254.25).
- (n) Records relating to the security of the department's electronic technology systems (Government Code § 6254.19).
- (o) A record of a civilian complaint, or the investigations, findings, or dispositions of that complaint if the complaint is frivolous, as defined by Code of Civil Procedure § 128.5, or if the complaint is unfounded (Penal Code § 832.7 (b)(8)).
- (p) Any other record not addressed in this policy shall not be subject to release where such record is exempt or prohibited from disclosure pursuant to state or federal

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law, including but not limited to provisions of the Evidence Code relating to privilege (Government Code § 6254).

- (q) Information connected with juvenile court proceedings or the detention or custody of a juvenile. Federal officials may be required to obtain a court order to obtain certain juvenile information (Welfare and Institutions Code § 827.9; Welfare and Institutions Code § 831).

### **810.6 SUBPOENAS AND DISCOVERY REQUESTS**

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the District Attorney, City Attorney or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

### **810.7 RELEASED RECORDS TO BE MARKED**

Each page of any written record released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the department name and to whom the record was released.

Each audio/video recording released should include the department name and to whom the record was released.

### **810.8 SEALED RECORD ORDERS**

Sealed record orders received by the Department shall be reviewed for appropriate action by the Custodian of Records. The Custodian of Records shall seal such records as ordered by the court. Records may include but are not limited to a record of arrest, investigation, detention, or conviction. Once the record is sealed, members shall respond to any inquiry as though the record did not exist (Penal Code § 851.8; Welfare and Institutions Code § 781).

When an arrest record is sealed pursuant to Penal Code § 851.87, Penal Code § 851.90, Penal Code § 851.91, Penal Code § 1000.4, or Penal Code § 1001.9, the Records Supervisor shall ensure that the required notations on local summary criminal history information and police investigative reports are made. Sealed records may be disclosed or used as authorized by Penal Code § 851.92.

### **810.9 SECURITY BREACHES**

The Records Supervisor shall ensure notice is given anytime there is a reasonable belief an unauthorized person has acquired either unencrypted personal identifying information or

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encrypted personal information along with the encryption key or security credential stored in any Department information system (Civil Code § 1798.29).

Notice shall be given as soon as reasonably practicable to all individuals whose information may have been acquired. The notification may be delayed if the Department determines that notification will impede a criminal investigation or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

For the purposes of this requirement, personal identifying information includes an individual's first name or first initial and last name in combination with any one or more of the following:

- Social Security number
- Driver license number or California identification card number
- Account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account
- Medical information
- Health insurance information
- A username or email address, in combination with a password or security question and answer that permits access to an online account
- Information or data collected by Automated License Plate Reader (ALPR) technology

#### 810.9.1 FORM OF NOTICE

- (a) The notice shall be written in plain language, be consistent with the format provided in Civil Code § 1798.29 and include, to the extent possible, the following:
  1. The date of the notice.
  2. Name and contact information for the Clovis Police Department.
  3. A list of the types of personal information that were or are reasonably believed to have been acquired.
  4. The estimated date or date range within which the security breach occurred.
  5. Whether the notification was delayed as a result of a law enforcement investigation.
  6. A general description of the security breach.
  7. The toll-free telephone numbers and addresses of the major credit reporting agencies, if the breach exposed a Social Security number or a driver license or California identification card number.
- (b) The notice may also include information about what the Clovis Police Department has done to protect individuals whose information has been breached and may include information on steps that the person whose information has been breached may take to protect him/herself (Civil Code § 1798.29).

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- (c) When a breach involves an online account, and only a username or email address in combination with either a password or security question and answer that would permit access to an online account, and no other personal information has been breached (Civil Code § 1798.29):
  - 1. Notification may be provided electronically or in another form directing the person to promptly change either his/her password or security question and answer, as applicable, or to take other appropriate steps to protect the online account with the Department in addition to any other online accounts for which the person uses the same username or email address and password or security question and answer.
  - 2. When the breach involves an email address that was furnished by the Clovis Police Department, notification of the breach should not be sent to that email address but should instead be made by another appropriate medium as prescribed by Civil Code § 1798.29.

#### 810.9.2 MANNER OF NOTICE

- (a) Notice may be provided by one of the following methods (Civil Code § 1798.29):
  - 1. Written notice.
  - 2. Electronic notice if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 USC § 7001,
  - 3. Substitute notice if the cost of providing notice would exceed \$250,000, the number of individuals exceeds 500,000 or the Department does not have sufficient contact information. Substitute notice shall consist of all of the following:
    - (a) Email notice when the Department has an email address for the subject person.
    - (b) Conspicuous posting of the notice on the department's webpage for a minimum of 30 days.
  - 4. Notification to major statewide media and the California Information Security Office within the California Department of Technology.
- (b) If a single breach requires the Department to notify more than 500 California residents, the Department shall electronically submit a sample copy of the notification, excluding any personally identifiable information, to the Attorney General.

## Protected Information

### 812.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release and security of protected information by members of the Clovis Police Department. This policy addresses the protected information that is used in the day-to-day operation of the Department and not the public records information covered in the Records Maintenance and Release Policy.

#### 812.1.1 DEFINITIONS

Definitions related to this policy include:

**Protected information** - Any information or data that is collected, stored or accessed by members of the Clovis Police Department and is subject to any access or release restrictions imposed by law, regulation, order or use agreement. This includes all information contained in federal, state or local law enforcement databases that is not accessible to the public.

### 812.2 POLICY

Members of the Clovis Police Department will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

### 812.3 RESPONSIBILITIES

The Chief of Police shall select a member of the Department to coordinate the use of protected information.

The responsibilities of this position include, but are not limited to:

- (a) Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, National Law Enforcement Telecommunications System (NLETS), Department of Motor Vehicle (DMV) records and California Law Enforcement Telecommunications System (CLETS).
- (b) Developing, disseminating and maintaining procedures that adopt or comply with the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy.
- (c) Developing, disseminating and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release and security of protected information.
- (d) Developing procedures to ensure training and certification requirements are met.
- (e) Resolving specific questions that arise regarding authorized recipients of protected information.
- (f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

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**812.4 ACCESS TO PROTECTED INFORMATION**

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Clovis Police Department policy or training. Only those members who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access.

Unauthorized access, including access for other than a legitimate work-related purpose, is prohibited and may subject a member to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution.

**812.4.1 PENALTIES FOR MISUSE OF RECORDS**

It is a misdemeanor to furnish, buy, receive or possess Department of Justice criminal history information without authorization by law (Penal Code § 11143).

Authorized persons or agencies violating state regulations regarding the security of Criminal Offender Record Information (CORI) maintained by the California Department of Justice may lose direct access to CORI (11 CCR 702).

**812.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION**

Protected information may be released only to authorized recipients who have both a right to know and a need to know.

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Records Supervisor for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Department may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation. Any such information should be released through the Records and Public Services to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

Protected information, such as Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should generally not be transmitted by radio, cellular telephone or any other type of wireless transmission to members in the field or in vehicles through any computer or electronic device, except in cases where there is an immediate need for the information to further an investigation or where circumstances reasonably indicate that the immediate safety of officers, other department members or the public is at risk.

Nothing in this policy is intended to prohibit broadcasting warrant information.

**812.5.1 REVIEW OF CRIMINAL OFFENDER RECORD**

Individuals requesting to review their own California criminal history information shall be referred to the Department of Justice (Penal Code § 11121).

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Individuals shall be allowed to review their arrest or conviction record on file with the Department after complying with all legal requirements regarding authority and procedures in Penal Code § 11120 through Penal Code § 11127 (Penal Code § 13321).

### **812.6 SECURITY OF PROTECTED INFORMATION**

The Chief of Police will select a member of the Department to oversee the security of protected information.

The responsibilities of this position include, but are not limited to:

- (a) Developing and maintaining security practices, procedures and training.
- (b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.
- (c) Establishing procedures to provide for the preparation, prevention, detection, analysis and containment of security incidents including computer attacks.
- (d) Tracking, documenting and reporting all breach of security incidents to the Chief of Police and appropriate authorities.

#### **812.6.1 MEMBER RESPONSIBILITIES**

Members accessing or receiving protected information shall ensure the information is not accessed or received by persons who are not authorized to access or receive it. This includes leaving protected information, such as documents or computer databases, accessible to others when it is reasonably foreseeable that unauthorized access may occur (e.g., on an unattended table or desk; in or on an unattended vehicle; in an unlocked desk drawer or file cabinet; on an unattended computer terminal).

### **812.7 TRAINING**

All members authorized to access or release protected information shall complete a training program that complies with any protected information system requirements and identifies authorized access and use of protected information, as well as its proper handling and dissemination.

### **812.8 CALIFORNIA RELIGIOUS FREEDOM ACT**

Members shall not release personal information from any agency database for the purpose of investigation or enforcement of any program compiling data on individuals based on religious belief, practice, affiliation, national origin or ethnicity (Government Code § 8310.3).



## Computers and Digital Evidence

### 814.1 PURPOSE AND SCOPE

This policy establishes procedures for the seizure and storage of computers, personal communications devices (PCD's) digital cameras, digital recorders and other electronic devices that are capable of storing digital information; and for the preservation and storage of digital evidence. All evidence seized and/or processed pursuant to this policy shall be done so in compliance with clearly established Fourth Amendment and search and seizure provisions.

### 814.2 SEIZING COMPUTERS AND RELATED EVIDENCE

Computer equipment requires specialized training and handling to preserve its value as evidence. Officers should be aware of the potential to destroy information through careless or improper handling, and utilize the most knowledgeable available resources. When seizing a computer and accessories the following steps should be taken:

- (a) Photograph each item, front and back, specifically including cable connections to other items. Look for a phone line or cable to a modem for Internet access.
- (b) Do not overlook the possibility of the presence of physical evidence on and around the hardware relevant to the particular investigation such as fingerprints, biological or trace evidence, and/or documents.
- (c) If the computer is off, do not turn it on.
- (d) If the computer is on, do not shut it down normally and do not click on anything or examine any files.
  - 1. Photograph the screen, if possible, and note any programs or windows that appear to be open and running.
  - 2. Disconnect the power cable from the back of the computer box or if a portable notebook style, disconnect any power cable from the case and remove the battery).
- (e) Label each item with case number, evidence sheet number, and item number.
- (f) Handle and transport the computer and storage media (e.g., tape, discs, memory cards, flash memory, external drives) with care so that potential evidence is not lost.
- (g) Lodge all computer items in the Property Room. Do not store computers where normal room temperature and humidity is not maintained.
- (h) At minimum, officers should document the following in related reports:
  - 1. Where the computer was located and whether or not it was in operation.
  - 2. Who was using it at the time.
  - 3. Who claimed ownership.

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4. If it can be determined, how it was being used.
- (i) In most cases when a computer is involved in criminal acts and is in the possession of the suspect, the computer itself and all storage devices (hard drives, tape drives, and disk drives) should be seized along with all media if authority to seize exists. Accessories (printers, monitors, mouse, scanner, keyboard, cables, software and manuals) generally should not be seized unless as a precursor to forfeiture or related to the crime scene investigation.

### **814.2.1 BUSINESS OR NETWORKED COMPUTERS**

If the computer belongs to a business or is part of a network, it may not be feasible to seize the entire computer. Cases involving networks require specialized handling. Officers should contact a certified forensic computer examiner for instructions or a response to the scene.

### **814.2.2 FORENSIC EXAMINATION OF COMPUTERS**

If an examination of the contents of the computer's hard drive, or floppy disks, compact discs, or any other storage media is required, forward the following items to a computer forensic examiner:

- (a) Copy of report(s) involving the computer, including the Evidence/Property sheet.
- (b) Copy of a consent to search form signed by the computer owner or the person in possession of the computer, or a copy of a search warrant authorizing the search of the computer hard drive for evidence relating to investigation.
- (c) A listing of the items to search for (e.g., photographs, financial records, e-mail, documents).
- (d) A forensic working image of the hard drive or disk will be made using a forensic computer and a forensic software program by someone trained in the examination of computer storage devices for evidence.

### **814.3 SEIZING DIGITAL STORAGE MEDIA**

Digital storage media including hard drives, floppy discs, CD's, DVD's, tapes, memory cards, or flash memory devices should be seized and stored in a manner that will protect them from damage.

- (a) If the media has a write-protection tab or switch, it should be activated.
- (b) Do not review, access or open digital files prior to submission.
- (c) Many kinds of storage media can be erased or damaged by magnetic fields. Keep all media away from magnetic devices, electric motors, radio transmitters or other sources of magnetic fields.
- (d) Do not leave storage media where they would be subject to excessive heat such as in a parked vehicle on a hot day.
- (e) Use appropriate cases designed to protect the media, or other protective packaging, to prevent damage.

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**814.4 SEIZING PCDS**

Personal communication devices such as cell phones, PDA's or other hand-held devices connected to any communication network must be handled with care to preserve evidence that may be on the device including messages, stored data and/or images.

- (a) Officers should not attempt to access, review or search the contents of such devices prior to examination by a forensic expert.
- (b) Unsent messages can be lost, data can be inadvertently deleted and incoming messages can override stored messages.

## **Animal Services Procedures**

### **820.1 PURPOSE AND SCOPE**

The purpose of this policy is to establish guidelines for Clovis Police Department Community Service Officers and other police department personnel in dealing with animal control related calls for service and to set forth procedures regarding animal control services, the handling of injured animals, and the abatement of animal nuisances.

### **820.2 ANIMAL CONTROL OFFICER RESPONSIBILITY**

The Community Service Officer (CSO) assigned to Animal Control Services shall be responsible for enforcing local, state and federal laws relating to animals, and for appropriately resolving or referring animal problems as outlined in this policy. The CSO shall be under the operational control of the Enforcement Division. The CSO's assigned working hours will be scheduled by the Enforcement Division Commander.

During hours when the CSO is on duty, requests for animal control services shall be assigned by Communications or the Watch Commander.

Requests for assistance by the CSO shall be acknowledged and responded to promptly.

### **820.3 OFFICER RESPONSIBILITY**

During hours when the Animal Control Officer is off-duty, or if the ACO is otherwise unavailable, the following animal related calls for service will be handled by the appropriate on-duty officer.

Officers may be dispatched to animal related calls and should take appropriate actions to control the situation until the arrival of an ACO. Due to the hazards of handling animals without proper equipment, responding officers generally should not attempt to capture and pick up any animal, but should keep the animal under observation until the arrival of the ACO. The following are examples of when an officer may consider acting before the arrival of the ACO:

- (a) When there is a threat to the public safety.
- (b) When animal has bitten someone, officers should take measures to confine the animal and prevent further injury.
- (c) When an animal is creating a traffic hazard.
- (d) When the owner/handler has been arrested and there is no other alternative placement for the animal.
- (e) When the animal is gravely injured.

#### **820.3.1 ANIMAL CRUELTY COMPLAINTS**

Officers shall conduct a preliminary investigation on all reports of animal cruelty and forward the information to the CSO assigned to Animal Control Services for follow-up. Officers shall not hesitate to take any immediate actions deemed necessary. The assistance of a CSO may

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be requested to assist with the investigation when appropriate for the purpose of handling the disposition of any animal(s) associated with the case.

### **820.3.2 STRAY DOGS**

If the dog has a license or can otherwise be identified, the owner should be contacted, if possible. If the owner is contacted, the dog should be released to the owner and a citation may be issued if appropriate. If a dog is taken into custody, it shall be transported to the Animal Shelter (9am-4pm) or to the holding pens, making sure the animal has food, water, and bedding.

The animal pick-up form must be completely filled out and placed in the box at the Animal Control Services Shelter. Release of impounded dogs requires a fee be paid. Releases will be handled by the CSO assigned to Animal Control Services or, in his/her absence, by a patrol officer. Records personnel will accept fees and issue receipts.

The CSO will transport any animals in the holding pens to the Animal Shelter as soon as he/she comes on duty. Once a dog has been taken into custody, all releases should be handled by the Animal Shelter. In cases where the CSO is not available, the Watch Commander shall designate an alternate to transport so that any animals are not held in the holding pens unnecessarily for extended periods.

### **820.3.3 ANIMAL BITE REPORTS**

Officers shall obtain as much information as possible for forwarding to the CSO for follow-up. Officers shall instruct the owner of a biting animal, if contacted, to keep the animal confined on the property until contacted by the CSO. If the animal is a stray, then every effort shall be made to capture and impound the animal immediately.

### **820.3.4 PUBLIC NUISANCE CALLS RELATING TO ANIMALS**

Officers shall obtain and forward to the CSO as much information as possible regarding the nature of the complaint, complaining person, owner information (if possible), location of problem, etc. Officers will also document any actions taken, citation(s) issued, related report numbers, etc.

In the event responding officers cannot fulfill urgent requests for service because the animal is difficult or dangerous to handle, the CSO assigned to Animal Control Services may be called to duty to handle. If the CSO is unavailable, the patrol supervisor may request the assistance of an animal control officer from an allied agency.

All requests to call in the CSO assigned to Animal Control Services must be approved by a field supervisor or the Watch Commander.

### **820.4 DECEASED ANIMALS**

Deceased animals on public property will be removed and properly disposed of by the CSO. Officers will remove deceased animals when the CSO assigned to Animal Control Services is not on duty. The deceased animals may be placed in the dead pan of the Animal Control truck.

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- (a) For health and sanitary reasons, deceased animals should be placed in a sealed plastic bag prior to placing in the Animal Control truck. Large animals should be double bagged and left next to the truck, out of public view.
- (b) Neither the CSO nor any officer will be required to climb onto or under any privately owned structure for the purpose of removing a deceased animal.

#### **820.5 INJURED ANIMALS**

When any injured domesticated animal is brought to the attention of a member of this agency, all reasonable attempts shall be made to contact the owner or responsible handler. When the owner or responsible handler cannot be located and the animal is not an immediate danger to the community, it shall be taken to a doctor of veterinary medicine as described below (Penal Code 597.1(b)).

- (a) During normal business hours, the animal should be taken to an authorized veterinary care clinic.
- (b) If after normal business hours, the animal should be taken to the authorized Veterinary Emergency and Critical Care Services Clinic.
- (c) The only exception to the above is when the animal is an immediate danger to the community or the owner of the animal is identified and takes responsibility for the injured animal.
  - 1. When the need to kill a seriously injured or dangerous animal is necessary, the department Firearms and Qualification Policy shall be followed. The decision to dispose of a seriously injured animal will rest with the on-duty Watch Commander.
- (d) Injured wildlife should be referred to the SPCA, Marine Mammal Center or Department of Fish and Wildlife as applicable. The SPCA will not pick up common pigeons (red legs), starlings, bats or skunks.
- (e) When handling dead or injured animals department employees shall attempt to identify and notify the owner of the final disposition of the animal.
- (f) Each incident shall be documented and, at minimum, include the name of the reporting party and veterinary hospital and/or person to whom the animal is released. If the ACO is off duty, the information will be forwarded for follow-up.

#### **820.6 CITATIONS**

It should be at the discretion of the handling officer or the Field Supervisor as to the need for, or advisability of, the issuance of a citation for a violation.

*Animal Services Procedures*

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**820.7 POST-ARREST PROCEDURES**

The arresting officer should make a reasonable effort to ensure that animals or pets under a person's care will be provided with adequate care when that person is arrested. This is only required when there is no person to provide care and the arrestee is expected to be in custody for a time period longer than would reasonably allow him/her to properly care for the animals.

Relatives or neighbors may be contacted, with the owner's consent, to care for the animals. If no persons can be found or the owner does not consent, the appropriate animal control authority should be notified.

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### 822.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines to ensure this department fulfills its obligation in complying with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) as well as applicable California Education Code requirements.

### 822.2 POLICY

The Clovis Police Department encourages accurate and prompt reporting of all crimes and takes all such reports seriously (20 USC § 1092(f)(1)(C)(iii)). Reports will be accepted in any manner, including in person or in writing, at any Clovis Police Department facility. Reports will be accepted anonymously, by phone or via email or on the institution's website.

It is the policy of the Clovis Police Department to comply with the Clery Act. Compliance with the Clery Act requires a joint effort between the Clovis Police Department and the administration of the institution.

Supervisors assigned areas of responsibility in the following policy sections are expected to be familiar with the subsections of 20 USC § 1092(f) and 34 CFR 668.46 that are relevant to their responsibilities:

### 822.3 POLICY, PROCEDURE AND PROGRAM DEVELOPMENT

The Chief of Police will:

- (a) Ensure that the Clovis Police Department establishes procedures for immediate emergency response and evacuation, including the use of electronic and cellular communication and testing of these procedures (20 USC § 1092(f)(1)(J)(i); 20 USC § 1092(f)(1)(J)(iii)).
- (b) Enter into written agreements as appropriate with local law enforcement agencies to (Education Code § 67381.1):
  1. Identify roles in the investigation of alleged criminal offenses on campus (20 USC § 1092(f)(1)(C)(ii)).
    - (a) This includes identification of the responsibilities for sexual assault, hate crimes and Part 1 violent crime investigations (e.g., willful homicide, forcible rape, robbery or aggravated assault as defined in the FBI's Uniform Crime Reporting (UCR) Handbook), and establishing the specific geographical boundaries of each agency's responsibility, including maps as necessary (Education Code § 67381).
  2. Assist in the monitoring and reporting of criminal activity at off-campus student organizations that are recognized by the institution and engaged in by students attending the institution, including student organizations with off-campus housing facilities (20 USC § 1092(f)(1)(G)).



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3. Ensure coordination of emergency response and evacuation procedures, including procedures to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation (20 USC § 1092(f)(1)(J)).
  4. Notify the Clovis Police Department of criminal offenses reported to local law enforcement agencies to assist the institution in meeting its reporting requirements under the Clery Act (20 USC § 1092(f)(1)(F)).
  5. Notify the Clovis Police Department of criminal offenses reported to local law enforcement agencies to assist in making information available to the campus community in a timely manner and to aid in the prevention of similar crimes. Such disseminated information shall withhold the names of victims as confidential (20 USC § 1092(f)(3)).
- (c) Appoint a designee to develop programs that are designed to inform students and employees about campus security procedures and practices, and to encourage students and employees to be responsible for their own security and the security of others (20 USC § 1092(f)(1)(D)).
  - (d) Appoint a designee to develop programs to inform students and employees about the prevention of crime (20 USC § 1092(f)(1)(E)).
  - (e) Appoint a designee to develop educational programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault and stalking, and what to do if an offense occurs, including but not limited to, who should be contacted, the importance of preserving evidence and to whom the alleged offense should be reported (20 USC § 1092(f)(8)(B)). The designee shall also develop written materials to be distributed to reporting persons that explains the rights and options provided for under 20 USC § 1092 (20 USC § 1092(f)(8)(C)).
  - (f) Appoint a designee to make the appropriate notifications to institution staff regarding missing person investigations in order to ensure that the institution complies with the requirements of 34 CFR 668.46(h).

#### 822.3.1 ADDITIONAL REQUIREMENTS

The Chief of Police or the authorized designee will also (Education Code § 67386):

- (a) Assist the institution with the development of policies and procedures relating to sexual assault, domestic violence, dating violence and stalking involving a student whether it occurred on- or off-campus including:
  1. The differences between standards of proof and defenses in criminal investigations and administrative or disciplinary matters.
  2. Victim-centered protocols including privacy protection, responses to reports, interviews, investigations, required notifications and participation by victim advocates and other supporting individuals.

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- (b) Assist, as appropriate, with trauma-informed training for campus personnel involved in investigating and adjudicating sexual assault, domestic violence, dating violence and stalking cases.
- (c) Assist, as appropriate, in the development of the institution's comprehensive prevention and outreach programs addressing sexual violence, domestic violence, dating violence, and stalking.
- (d) Ensure that any reported Part 1 violent crime, sexual assault or hate crime described in Penal Code § 422.55 (whether it occurred on- or off-campus), is reported as soon as practicable to any local law enforcement agency with Investigation responsibilities pursuant to a written agreement with the Clovis Police Department or the institution (Education Code § 67380).
  - 1. The identification of the victim shall be withheld, unless the victim consents to being identified after being informed of the right to have his/her personally identifying information withheld. If the victim does not consent to being identified, then the alleged assailant shall not be identified unless the institution determines that the alleged assailant represents a serious or ongoing threat to the safety of the students, employees or the institution, and the immediate assistance of the Clovis Police Department is necessary to contact or detain the assailant (Education Code § 67380).
  - 2. If the institution discloses the identity of the alleged assailant to the Clovis Police Department, the institution must immediately inform the victim of that disclosure (Education Code § 67380).

### **822.4 RECORDS COLLECTION AND RETENTION**

The Records Supervisor is responsible for maintaining Clovis Police Department statistics and making reasonable good-faith efforts to obtain statistics from other law enforcement agencies as necessary to allow the institution to comply with its reporting requirements under the Clery Act (20 USC § 1092(f)(1)(F)). The statistics shall be compiled as follows:

- (a) Statistics concerning the occurrence of the following criminal offenses reported to this department or to local police agencies that occurred on campus, in or on non-campus buildings or property, and on public property including streets, sidewalks and parking facilities within the campus or immediately adjacent to and accessible from the campus (20 USC § 1092(f)(1)(F)(i); 34 CFR 668.46(c)):
  - 1. Murder
  - 2. Sex offenses, forcible or non-forcible
  - 3. Robbery
  - 4. Aggravated assault
  - 5. Burglary
  - 6. Motor vehicle theft
  - 7. Manslaughter
  - 8. Arson

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9. Arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations and weapons possession
  10. Dating violence, domestic violence and stalking
- (b) Statistics concerning the crimes described in the section above, theft, simple assault, intimidation, destruction, damage or vandalism of property, and other crimes involving bodily injury to any person where the victim was intentionally selected because of his/her actual or perceived race, sex, religion, gender, gender identity, sexual orientation, ethnicity or disability. These statistics should be collected and reported according to the category of prejudice (20 USC § 1092(f)(1)(F)(ii); 34 CFR 668.46(c)).
1. The statistics shall be compiled using the definitions in the FBI's UCR system and modifications made pursuant to the Hate Crime Statistics Act (20 USC § 1092(f)(7); 34 CFR 668.46(c)(9)). For the offenses of domestic violence, dating violence and stalking, such statistics shall be compiled in accordance with the definitions used in the Violence Against Women Act (20 USC § 1092(f)(7); 34 USC § 12291; 34 CFR 668.46(a)). The statistics will be categorized separately as offenses that occur in the following places (20 USC § 1092(f)(12); 34 CFR 668.46(c)(5)):
    - (a) On campus.
    - (b) In or on a non-campus building or property.
    - (c) On public property.
    - (d) In dormitories or other on-campus, residential or student facilities.
- (c) Statistics will be included by the calendar year in which the crime was reported to the Clovis Police Department (34 CFR 668.46(c)(3)).
- (d) Stalking offenses will include a statistic for each year in which the stalking conduct is reported and will be recorded as occurring either at the first location where the stalking occurred or the location where the victim became aware of the conduct (34 CFR 668.46(c)(6)).
- (e) Statistics will include the three most recent calendar years (20 USC § 1092(f)(1)(F); 34 CFR 668.46(c)).
- (f) The statistics shall not identify victims of crimes or persons accused of crimes (20 USC § 1092(f)(7)).

### 822.4.1 CRIME LOG

The Records Supervisor is responsible for ensuring a daily crime log is created and maintained as follows (20 USC § 1092(f)(4); 34 CFR 668.46(f)):

- (a) The daily crime log will record all crimes reported to the Clovis Police Department, including the nature, date, time and general location of each crime, and the disposition, if known.
- (b) All log entries shall be made within two business days of the initial report being made to the Department.

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- (c) If new information about an entry becomes available, then the new information shall be recorded in the log not later than two business days after the information becomes available to the police department or security department.
- (d) The daily crime log for the most recent 60-day period shall be open to the public for inspection at all times during normal business hours. Any portion of the log that is older than 60 days must be made available within two business days of a request for public inspection. Information in the log is not required to be disclosed when:
  - 1. Disclosure of the information is prohibited by law.
  - 2. Disclosure would jeopardize the confidentiality of the victim.
  - 3. There is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, may cause a suspect to flee or evade detection, or could result in the destruction of evidence. In any of these cases, the information may be withheld until that damage is no longer likely to occur from the release of such information.

### **822.4.2 COMPILING RECORDS FOR DISCLOSURE REQUIREMENTS**

The Records Supervisor is also responsible for compiling the following to allow the institution to comply with its disclosure requirements under Education Code § 67380:

- (a) All occurrences reported to the Clovis Police Department and all arrests for crimes that are committed on campus that involve violence, hate violence, theft, destruction of property, illegal drugs, or alcohol intoxication.
- (b) All occurrences of noncriminal acts of hate violence reported to the Clovis Police Department for which a written report is prepared.

### **822.5 INFORMATION DISSEMINATION**

It is the responsibility of the Administration Division Commander to ensure that the required Clery Act disclosures are properly forwarded to campus administration and community members in accordance with institution procedures. This includes:

- (a) Procedures for providing emergency notification of crimes or other incidents and evacuations that might represent an imminent threat to the safety of students or employees (20 USC § 1092(f)(3); 34 CFR 668.46(e); 34 CFR 668.46 (g)).
- (b) Procedures for notifying the campus community about crimes considered to be a threat to other students and employees in order to aid in the prevention of similar crimes. Such disseminated information shall withhold the names of victims as confidential (20 USC § 1092(f)(3)).
- (c) Information necessary for the institution to prepare its annual security report (20 USC § 1092(f)(1); 34 CFR 668.46(b)). This report will include, but is not limited to:
  - 1. Crime statistics and the policies for preparing the crime statistics.

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2. Crime and emergency reporting procedures, including the responses to such reports.
3. Policies concerning security of and access to campus facilities.
4. Crime, dating violence, domestic violence, sexual assault and stalking awareness and prevention programs, including
  - (a) Procedures victims should follow.
  - (b) Procedures for protecting the confidentiality of victims and other necessary parties.
5. Enforcement policies related to alcohol and illegal drugs.
6. Locations where the campus community can obtain information about registered sex offenders.
7. Emergency response and evacuation procedures.
8. Missing student notification procedures.
9. Information addressing the jurisdiction and authority of campus security including any working relationships and agreements between campus security personnel and both state and local law enforcement agencies.

## **Chapter 9 - Custody**

## Temporary Custody of Adults

### 900.1 PURPOSE AND SCOPE

This policy provides guidelines to address the health and safety of adults taken into temporary custody by members of the Clovis Police Department for processing prior to being released or transferred to a housing or other type of facility.

Temporary custody of juveniles is addressed in the Temporary Custody of Juveniles Policy. Juveniles will not be permitted where adults in custody are being held.

Custodial searches are addressed in the Custodial Searches Policy.

#### 900.1.1 DEFINITIONS

Definitions related to this policy include:

**Holding cell/cell** - Any locked enclosure for the custody of an adult or any other enclosure that prevents the occupants from being directly visually monitored at all times by a member of the Department.

**Safety checks** - Direct, visual observation by a member of this department performed at random intervals, within time frames prescribed in this policy, to provide for the health and welfare of adults in temporary custody.

**Temporary custody** - The time period an adult is in custody at the Clovis Police Department prior to being released or transported to a housing or other type of facility.

### 900.2 POLICY

The Clovis Police Department is committed to releasing adults from temporary custody as soon as reasonably practicable, and to keeping adults safe while in temporary custody at the Department. Adults should be in temporary custody only for as long as reasonably necessary for investigation, processing, transfer or release.

#### 900.2.1 CURRENT STAFFING PLAN

- (a) **Facility Administrator:** The Chief of Police
- (b) **Facility Manager:** Appointed Patrol Lieutenant
- (c) **Maintenance Manager:** Appointed Patrol Sergeant
- (d) **Facility Supervisor:** On Duty Watch Commander

### 900.3 GENERAL CRITERIA AND SUPERVISION

No adult should be in temporary custody for longer than six hours.

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#### 900.3.1 INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY

Individuals who exhibit certain behaviors or conditions should not be in temporary custody at the Clovis Police Department, but should be transported to a jail facility, a medical facility, or another type of facility as appropriate. These include:

- (a) Any individual who is unconscious or has been unconscious while being taken into custody or while being transported.
- (b) Any individual who has a medical condition, including pregnancy, that may require medical attention, supervision, or medication while he/she is in temporary custody.
- (c) Any individual who is seriously injured.
- (d) Individuals who are a suspected suicide risk (see the Mental Illness Commitments Policy).
  - 1. If the officer taking custody of an individual believes that he/she may be a suicide risk, the officer shall ensure continuous direct supervision until evaluation, release, or a transfer to an appropriate facility is completed (15 CCR 1030).
- (e) Individuals who are obviously in crisis, as defined in the Crisis Intervention Incidents Policy.
- (f) Individuals who are under the influence of alcohol, a controlled substance, or any substance to the degree that may require medical attention, or who have ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.
- (g) Any individual who has exhibited extremely violent or continuously violent behavior including behavior that results in the destruction of property or demonstrates an intent to cause physical harm to him/herself or others (15 CCR 1053; 15 CCR 1055).
- (h) Any individual who claims to have, is known to be afflicted with, or displays symptoms of any communicable disease that poses an unreasonable exposure risk (15 CCR 1051).
- (i) Any individual with a prosthetic or orthopedic device where removal of the device would be injurious to his/her health or safety.
- (j) Any individual who is obviously developmentally disabled (15 CCR 1057).
- (k) Any individual who appears to be a danger to him/herself or others due to a mental disorder, or who appears gravely disabled (15 CCR 1052).
- (l) Any individual who needs restraint beyond the use of handcuffs or shackles for security reasons (15 CCR 1058).
- (m) Any individual obviously suffering from drug or alcohol withdrawal (15 CCR 1213).

Officers taking custody of a person who exhibits any of the above conditions should notify a supervisor of the situation. These individuals should not be in temporary custody at the Department unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.



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#### **900.3.2 SUPERVISION IN TEMPORARY CUSTODY**

An authorized department member capable of supervising shall be present at all times when an individual is held in temporary custody. The member responsible for supervising should not have other duties that could unreasonably conflict with his/her supervision. Any individual in custody must be able to summon the supervising member if needed. If the person in custody is deaf or hard of hearing or cannot speak, accommodations shall be made to provide this ability (15 CCR 1027).

At least one female department member should be present when a female adult is in temporary custody. In the event that none is readily available, the female in custody should be transported to another facility or released pursuant to another lawful process (15 CCR 1027).

Absent exigent circumstances, such as a medical emergency or a violent subject, members should not enter the cell of a person of the opposite sex unless a member of the same sex as the person in custody is present (Penal Code § 4021).

No individual in custody shall be permitted to supervise, control or exert any authority over other individuals in custody.

#### **900.3.3 STAFFING PLAN**

The Chief of Police or the authorized designee shall ensure a staffing plan is prepared and maintained, indicating assigned personnel and their duties. The plan should ensure that at least one member who meets the training standards established by the Corrections Standards Authority (CSA) for general fire- and life-safety and is trained in fire- and life-safety procedures relating specifically to the facility is on-duty at all times (15 CCR 1028).

The staffing plan shall be available for biennial review by CSA staff. The review and recommendations of the CSA biennial review shall be forwarded to the City, as required by 15 CCR 1027.

#### **900.3.4 TEMPORARY DETENTION OF FEMALES**

Whenever one or more female prisoners are in custody, there shall be at least one female employee who shall be available and accessible to the female prisoner(s). Male employees are not to search or enter the cell of a female prisoner, unless another female employee is present. (Title 15, California Code of Regulations § 1027, Penal Code § 4021)

In the event there is not a female employee readily available to conduct searches and hourly safety inspections, the female prisoner shall be transported to the county jail, or released pursuant to another lawful process (e.g., citation, O.R. release, etc.).

#### **900.3.5 ENTRY RESTRICTIONS**

Entry into any location where a person is held in custody should be restricted to:

- (a) Authorized members entering for official business purposes.
- (b) Emergency medical personnel when necessary.
- (c) Any other person authorized by the Watch Commander.

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When practicable, more than one authorized member should be present for entry into a location where a person is held in custody for security purposes and to witness interactions.

#### **900.4 INITIATING TEMPORARY CUSTODY**

The officer responsible for an individual in temporary custody should evaluate the person for any apparent chronic illness, disability, vermin infestation, possible communicable disease or any other potential risk to the health or safety of the individual or others. The officer should specifically ask if the individual is contemplating suicide and evaluate him/her for obvious signs or indications of suicidal intent.

The receiving officer should ask the arresting officer if there is any statement, indication or evidence surrounding the individual's arrest and transportation that would reasonably indicate the individual is at risk for suicide or critical medical care. If there is any suspicion that the individual may be suicidal, he/she shall be transported to the City jail or the appropriate mental health facility.

The officer should promptly notify the Watch Commander of any conditions that may warrant immediate medical attention or other appropriate action. The Watch Commander shall determine whether the individual will be placed in a cell, immediately released or transported to jail or other facility.

##### **900.4.1 PROSTHETIC DEVICES**

Inmates, in need of orthopedic or prosthetic appliances, shall be allowed to retain such items while in custody. If there is probable cause to believe there is an immediate risk of bodily harm or threat to the security of the facility, such appliance may be removed.

Medical aids (eyeglasses, hearing aids, and false teeth) may be searched, but will not be confiscated unless the inmate has demonstrated misuse in such a manner as to endanger their safety or that of others.

##### Definitions:

- (a) Orthopedic appliance - A specialized device that supports weakened or abnormal joints or limbs. Orthopedic devices include, but are not limited to the following: custom footwear, braces for the back, wrist, foot, ankle, or knee. For the purposes of this policy, does not include slings, canes, crutches or other similar assistive devices carried in stock and sold by drug stores or surgical supply facilities
- (b) Prosthetic appliance - Any artificial device that is not surgically implanted and that is used to replace a missing body part
- (c) Medical aids - Such items as false teeth, hearing aids, and eyeglasses

##### **900.4.2 SCREENING AND PLACEMENT**

The officer responsible for an individual in custody shall (15 CCR 1050):

- (a) Advise the Watch Commander of any significant risks presented by the individual (e.g., suicide risk, health risk, violence).

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- (b) Evaluate the following issues against the stated risks in (a) to determine the need for placing the individual in a single cell:
  - 1. Consider whether the individual may be at a high risk of being sexually abused based on all available known information (28 CFR 115.141), or whether the person is facing any other identified risk.
  - 2. Provide any individual identified as being at a high risk for sexual or other victimization with heightened protection. This may include (28 CFR 115.113; 28 CFR 115.141):
    - (a) Continuous, direct sight and sound supervision.
    - (b) Single-cell placement in a cell that is actively monitored on video by a member who is available to immediately intervene.
  - 3. Ensure individuals are separated according to severity of the crime (e.g., felony or misdemeanor).
  - 4. Ensure males and females are separated by sight and sound when in cells.
  - 5. Ensure restrained individuals are not placed in cells with unrestrained individuals.
- (c) Ensure that those confined under civil process or for civil causes are kept separate from those who are in temporary custody pending criminal charges.
- (d) Ensure separation, as appropriate, based on other factors, such as age, criminal sophistication, assaultive/non-assaultive behavior, mental state, disabilities and sexual orientation.

**900.4.3 CONSULAR NOTIFICATION**

Consular notification may be mandatory when certain foreign nationals are arrested. The Patrol Division Commander will ensure that the U.S. Department of State's list of countries and jurisdictions that require mandatory notification is readily available to department members. There should also be a published list of foreign embassy and consulate telephone and fax numbers, as well as standardized notification forms that can be transmitted and then retained for documentation. Prominently displayed signs informing foreign nationals of their rights related to consular notification should also be posted in areas used for the temporary custody of adults.

Department members assigned to process a foreign national shall:

- (a) Inform the individual, without delay, that he/she may have his/her consular officers notified of the arrest or detention and may communicate with them.
  - 1. This notification should be documented.
- (b) Determine whether the foreign national's country is on the U.S. Department of State's mandatory notification list.
  - 1. If the country is on the mandatory notification list, then:
    - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.

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- (b) Tell the individual that this notification has been made and inform him/her without delay that he/she may communicate with consular officers.
  - (c) Forward any communication from the individual to his/her consular officers without delay.
  - (d) Document all notifications to the embassy or consulate and retain the faxed notification and any fax confirmation for the individual's file.
- 2. If the country is not on the mandatory notification list and the individual requests that his/her consular officers be notified, then:
  - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
  - (b) Forward any communication from the individual to his/her consular officers without delay.

## **900.5 SAFETY, HEALTH AND OTHER PROVISIONS**

### **900.5.1 TEMPORARY CUSTODY LOGS**

Any time an individual is in temporary custody at the Clovis Police Department, the custody shall be promptly and properly documented in a custody log, including:

- (a) Identifying information about the individual, including his/her name.
- (b) Date and time of arrival at the Department.
- (c) Any charges for which the individual is in temporary custody and any case number.
- (d) Time of all safety checks (15 CCR 1027; 15 CCR 1027.5).
- (e) Any medical and other screening requested and completed.
- (f) Any emergency situations or unusual incidents.
- (g) Any other information that may be required by other authorities, such as compliance inspectors.
- (h) Date and time of release from the Clovis Police Department.

The Watch Commander should initial the log to approve the temporary custody and should also initial the log when the individual is released from custody or transferred to another facility.

The Watch Commander should make periodic checks to ensure all log entries and safety and security checks are made on time.

### **900.5.2 TEMPORARY CUSTODY REQUIREMENTS**

Members monitoring or processing anyone in temporary custody shall ensure:

- (a) Safety checks and significant incidents/activities are noted on the log.
- (b) Individuals in custody are informed that they will be monitored at all times, except when using the toilet.

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1. There shall be no viewing devices, such as peep holes or mirrors, of which the individual is not aware.
  2. This does not apply to surreptitious and legally obtained recorded interrogations.
- (c) There is reasonable access to toilets and wash basins.
  - (d) There is reasonable access to a drinking fountain or water.
  - (e) There are reasonable opportunities to stand and stretch, particularly if handcuffed or otherwise restrained.
  - (f) There is privacy during attorney visits.
  - (g) Those in temporary custody are generally permitted to remain in their personal clothing unless it is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
  - (h) Clean blankets are provided as reasonably necessary to ensure the comfort of an individual.
    1. The supervisor should ensure that there is an adequate supply of clean blankets.
  - (i) Adequate shelter, heat, light and ventilation are provided without compromising security or enabling escape.
  - (j) Adequate furnishings are available, including suitable chairs or benches.
  - (k) A sanitary and adequate mattress which meets Title 15 safety requirements will be provided to the arrestee.

#### 900.5.3 MEDICAL CARE

First-aid equipment and basic medical supplies should be available to department members (15 CCR 1220). At least one member who has current certification in basic first aid and CPR should be on-duty at all times.

Should a person in custody be injured or become ill, appropriate medical assistance should be sought. A supervisor should meet with those providing medical aid at the facility to allow access to the person. Members shall comply with the opinion of medical personnel as to whether an individual in temporary custody should be transported to the hospital. If the person is transported while still in custody, he/she will be accompanied by an officer.

Those who require medication while in temporary custody should not be at the Clovis Police Department. They should be released or transferred to another facility as appropriate.

#### 900.5.4 ORTHOPEDIC OR PROSTHETIC APPLIANCE

Subject to safety and security concerns, individuals shall be permitted to retain an orthopedic or prosthetic appliance. However, if the member supervising the individual has probable cause to believe the possession of the appliance presents a risk of bodily harm to any person or is a risk to the security of the facility, the appliance may be removed from the individual unless its removal would be injurious to his/her health or safety.

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Whenever a prosthetic or orthopedic appliance is removed, the Watch Commander shall be promptly apprised of the reason. It shall be promptly returned when it reasonably appears that any risk no longer exists (Penal Code § 2656; 15 CCR 1207).

#### **900.5.5 TELEPHONE CALLS**

Immediately upon being booked and, except where physically impossible, no later than three hours after arrest, an individual in custody has the right to make at least three completed calls to an attorney, bail bondsman, and a relative or other person (Penal Code § 851.5). Additional calls may be made as reasonable and necessary (15 CCR 1067). In providing further access to a telephone beyond that required by Penal Code § 851.5, legitimate law enforcement interests such as officer safety, effect on ongoing criminal investigations and logistics should be balanced against the individual's desire for further telephone access.

- (a) Telephone calls may be limited to local calls, except that long-distance calls may be made by the individual at his/her own expense.
  - 1. The Department should pay the cost of any long-distance calls related to arranging for the care of a child or dependent adult (see the Child and Dependent Adult Safety Policy).
  - 2. The provisions of Penal Code § 851.5 concerning this issue shall be posted in bold, block type in a conspicuous place within the facility.
- (b) The individual should be given sufficient time to contact whomever he/she desires and to make any necessary arrangements, including child or dependent adult care, or transportation upon release.
  - 1. Telephone calls are not intended to be lengthy conversations. The member assigned to monitor or process the individual may use his/her judgment in determining the duration of the calls.
  - 2. Within three hours of the arrest, the member supervising the individual should inquire whether the individual is a custodial parent with responsibility for a minor child, and notify the individual that he/she may make two additional telephone calls to a relative or other person for the purpose of arranging for the care of minor children (Penal Code § 851.5).
- (c) Calls between an individual in temporary custody and his/her attorney shall be deemed confidential and shall not be monitored, eavesdropped upon or recorded (Penal Code § 851.5(b)(1); 15 CCR 1068).

#### **900.5.6 RELIGIOUS ACCOMMODATION**

Subject to available resources, safety and security, the religious beliefs and needs of all individuals in custody should be reasonably accommodated (15 CCR 1072). Requests for religious accommodation should generally be granted unless there is a compelling security or safety reason and denying the request is the least restrictive means available to ensure security or safety. The responsible supervisor should be advised any time a request for religious accommodation is denied.

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Those who request to wear headscarves or simple head coverings for religious reasons should generally be accommodated absent unusual circumstances. Head coverings shall be searched before being worn.

Individuals wearing headscarves or other approved coverings shall not be required to remove them while in the presence of or while visible to the opposite sex if they so desire. Religious garments that substantially cover the individual's head and face may be temporarily removed during the taking of any photographs.

**900.5.7 FIREARMS AND OTHER SECURITY MEASURES**

Firearms and other weapons and control devices shall not be permitted in secure areas where individuals are in custody or are processed. They should be properly secured outside of the secure area. An exception may occur only during emergencies, upon approval of a supervisor.

All perimeter doors to secure areas shall be kept locked at all times, except during routine cleaning, when no individuals in custody are present or in the event of an emergency, such as an evacuation.

**900.5.8 REPORTING PHYSICAL HARM OR SERIOUS THREAT OF PHYSICAL HARM**

In addition to a custody log entry, any incident that results in physical harm or serious threat of physical harm to a member, person in custody or any other person shall be documented as stated in the Use of Force or On-Duty Injuries policies, or other applicable reporting process. A copy of all reports generated regarding the above circumstances shall be submitted as soon as reasonably practicable. The Watch Commander will retain a record of these reports for inspection purposes (15 CCR 1044).

**900.5.9 ATTORNEYS AND BAIL BONDSMEN**

- (a) An attorney may visit at the request of the individual in custody or a relative (Penal Code § 825).
- (b) Attorneys and bail bondsmen who need to interview an individual in custody should do so inside a secure interview room.
- (c) The individual in custody as well as the attorney or bail bondsman should be searched for weapons prior to being admitted to the interview room and at the conclusion of the interview.
- (d) Attorneys must produce a current California Bar card as well as other matching appropriate identification.
- (e) Interviews between attorneys and their clients shall not be monitored or recorded (15 CCR 1068).

**900.5.10 DISCIPLINE**

Discipline will not be administered to any individual in custody at this facility. Any individual in custody who repeatedly fails to follow directions or facility rules should be transported to the appropriate jail, mental health facility or hospital as soon as practicable. Such conduct should be documented and reported to the receiving facility (15 CCR 1081).

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### **900.6 USE OF RESTRAINT DEVICES**

Individuals in custody may be handcuffed in accordance with the Handcuffing and Restraints Policy. Unless an individual presents a heightened risk, handcuffs should generally be removed when the person is in a cell.

The use of restraints, other than handcuffs or leg irons, generally should not be used for individuals in temporary custody at the Clovis Police Department unless the person presents a heightened risk, and only in compliance with the Handcuffing and Restraints Policy.

Individuals in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

#### **900.6.1 PREGNANT ADULTS**

Women who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

### **900.7 PERSONAL PROPERTY**

The personal property of an individual in temporary custody should be removed, inventoried and processed as provided in the Custodial Searches Policy, unless the individual requests a different disposition. For example, an individual may request property (i.e., cash, car or house keys, medications) be released to another person. A request for the release of property to another person must be made in writing. Release of the property requires the recipient's signature on the appropriate form.

Upon release of an individual from temporary custody, his/her items of personal property shall be compared with the inventory, and he/she shall sign a receipt for the property's return. If the individual is transferred to another facility or court, the member transporting the individual is required to obtain the receiving person's signature as notice of receipt. The Department shall maintain a copy of the property receipt.

The Watch Commander shall be notified whenever an individual alleges that there is a shortage or discrepancy regarding his/her property. The Watch Commander shall attempt to prove or disprove the claim.

### **900.8 HOLDING CELLS**

A thorough inspection of a cell shall be conducted before placing an individual into the cell to ensure there are no weapons or contraband and that the cell is clean and sanitary. An inspection also should be conducted when he/she is released. Any damage noted to the cell should be photographed and documented.

The following requirements shall apply:

- (a) The individual shall be searched (see the Custodial Searches Policy), and anything that could create a security or suicide risk, such as contraband, hazardous items, belts, shoes or shoelaces and jackets, shall be removed.



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- (b) The individual shall constantly be monitored by an audio/video system during the entire custody.
- (c) The individual shall have constant auditory access to department members.
- (d) The individual's initial placement into and removal from a locked enclosure shall be logged.
- (e) Safety checks by department members shall occur at least every 30 minutes.
  - 1. Safety checks should be at varying times.
  - 2. All safety checks shall be logged.
  - 3. The safety check should involve questioning the individual as to his/her well-being.
  - 4. Individuals who are sleeping or apparently sleeping should be awakened.
  - 5. Requests or concerns of the individual should be logged.

#### **900.8.1 USE OF SOBERING CELL**

Inmates who are to be held in the Temporary Holding Facility and who present a threat to their own safety or the safety of others due to their state of intoxication should be placed in a sobering cell until their condition allows for continued processing.

The following guidelines apply when placing any inmate in a sobering cell (15 CCR 1056):

- (a) Placement of an inmate into the cell requires approval of the Watch Commander.
- (b) A cell log shall be initiated every time an inmate is placed in the cell. The log shall be maintained for the entire time the inmate is housed in the cell.
- (c) A safety check consisting of direct visual observation sufficient to assess the inmate's well-being and behavior shall occur at least once every 15 minutes. Each safety check shall be documented in the cell log. Supervisors shall check the logs for completeness every two hours and document this action on the cell log.
- (d) Under no circumstances shall an inmate be held in a sobering cell for more than six hours without being evaluated by qualified medical personnel to ensure that the inmate does not have an urgent medical issue.
- (e) Inmates will be removed from the cell when they no longer pose a threat to their own safety and the safety of others, and are able to continue processing.

#### **900.9 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY**

The Patrol Division Commander will ensure procedures are in place to address any suicide attempt, death or serious injury of any individual in temporary custody at the Clovis Police Department. The procedures should include the following:

- (a) Immediate request for emergency medical assistance if appropriate
- (b) Immediate notification of the Watch Commander, Chief of Police and Investigation Division Commander
- (c) Notification of the spouse, next of kin or other appropriate person

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- (d) Notification of the appropriate prosecutor
- (e) Notification of the City Attorney
- (f) Notification of the Coroner
- (g) Evidence preservation
- (h) In-custody death reviews (15 CCR 1046)
- (i) Notification to the Attorney General within 10 days of any death in custody including any reasonably known facts concerning the death (Government Code § 12525)

**900.10 RELEASE AND/OR TRANSFER**

When an individual is released or transferred from custody, the member releasing the individual should ensure the following:

- (a) All proper reports, forms and logs have been completed prior to release.
- (b) A check has been made to ensure that the individual is not reported as missing and does not have outstanding warrants.
- (c) It has been confirmed that the correct individual is being released or transported.
- (d) All property, except evidence, contraband or dangerous weapons, has been returned to, or sent with, the individual.
- (e) All pertinent documentation accompanies the individual being transported to another facility (e.g., copies of booking forms, medical records, an itemized list of his/her property, warrant copies).
- (f) The individual is not permitted in any nonpublic areas of the Clovis Police Department unless escorted by a member of the Department.
- (g) Any known threat or danger the individual may pose (e.g., escape risk, suicide potential, medical condition) is documented, and the documentation transported with the individual if he/she is being sent to another facility.
  - 1. The department member transporting the individual shall ensure such risks are communicated to intake personnel at the other facility.
- (h) Generally, persons of the opposite sex, or adults and juveniles, should not be transported in the same vehicle unless they are physically separated by a solid barrier. If segregating individuals is not practicable, officers should be alert to inappropriate physical or verbal contact and take appropriate action as necessary.
- (i) Transfers between facilities or other entities, such as a hospital, should be accomplished with a custodial escort of the same sex as the person being transferred to assist with his/her personal needs as reasonable.

**900.10.1 FORM REQUEST FOR PETITION TO SEAL RECORDS**

Upon request, a detained arrestee released from custody shall be provided with the appropriate Judicial Council forms to petition the court to have the arrest and related records sealed (Penal Code § 851.910).

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The Department shall display the required signage that complies with Penal Code § 851.91 advising an arrestee of the right to obtain the Judicial Council forms.

#### **900.11 ASSIGNED ADMINISTRATOR**

The Patrol Division Commander will ensure any reasonably necessary supplemental procedures are in place to address the following issues (15 CCR 1029):

- (a) General security
- (b) Key control
- (c) Sanitation and maintenance
- (d) Emergency medical treatment (15 CCR 1200)
- (e) Escapes
- (f) Evacuation plans
- (g) Fire- and life-safety, including a fire suppression pre-plan as required by 15 CCR 1032
- (h) Disaster plans
- (i) Building and safety code compliance
- (j) Civil and other disturbances including hostage situations
- (k) Periodic testing of emergency equipment
- (l) Emergency suspension of Title 15 regulations and notice to the Board of State and Community Corrections as required in 15 CCR 1012
- (m) Inspections and operations reviews
- (n) Any other applicable requirements under 15 CCR 1029

Annual review and evaluation of security measures including internal and external security measures, sanitation, safety and maintenance (15 CCR 1280).

These supplemental procedures shall be reviewed and updated no less than every two years and shall be available to all members (15 CCR 1029).

#### **900.12 TRAINING**

Department members should be trained and familiar with this policy and any supplemental procedures.

Department members responsible for supervising adults in temporary custody shall complete the Corrections Officer Core Course or eight hours of specialized training within six months of assignment. Such training shall include but not be limited to the following (15 CCR 1024):

- (a) Applicable minimum jail standards
- (b) Jail operations liability
- (c) Inmate segregation
- (d) Emergency procedures and planning, fire safety, and life safety.

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(e) Suicide prevention

Eight hours of refresher training shall be completed once every two years (15 CCR 1024).

The Training Coordinator shall maintain records of all such training in the member's training file.

#### **900.13 VERMIN CONTROL**

- (a) Any vermin infested prisoner brought into this facility shall be brought to the immediate attention of the Watch Commander. It is the policy of this department to transfer such prisoners to the Fresno County Jail. Under no circumstances should a vermin infested prisoner be placed in a cell with other inmates.
- (b) In the event that a vermin infested prisoner goes unnoticed, the procedures below shall be followed. In all cases the Watch Commander shall be informed immediately.
- (c) It is not unusual for an officer to observe what appears to be lice infestation of a prisoner during processing or subsequent to placement in a cell. The most common observation will involve adult lice and/or nits (eggs) on the scalp or other hairy portion of the body. Lice can also be found on the clothing particularly along the seams of inner surfaces.
- (d) The three types of lice most commonly found in detention environments are the head louse, body louse, and the crab (pubic) louse. The crab louse may be observed in the pubic area and in some cases the eyebrows and eyelashes. It is also possible for some forms of mites to be present on inmates, including scabies. Lice do not jump, but transfer by direct contact with a person, clothing or other personal belongings.
- (e) Should a prisoner contaminate equipment and/or a cell(s), the contaminated equipment and/or cell(s) shall be posted with a contaminated sign. The contaminated cell(s) or area(s) shall not be used until after being thoroughly cleaned.
- (f) The contaminated cell(s)/area(s) or equipment will be treated with a non-toxic pesticide, such as Pyrethrum. After treatment, all areas and equipment should be thoroughly cleaned. If vermin infestation is heavy, the services of a licensed pest control contractor will be utilized.
- (g) Should an officer become infested with lice, there are two over-the-counter pediculocides available at most pharmacies. The shampoos are "Pyrite 200" and "R.I.D".
- (h) If an officer's clothing becomes infested with lice, the clothing should be dry cleaned or washed in detergent and water at a temperature of 140 degrees. Commercial products such as "Silox" and "Dri Code" are available at hardware stores to delouse clothing.

## **Custodial Searches**

### **902.1 PURPOSE AND SCOPE**

This policy provides guidance regarding searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants or weapons into the Clovis Police Department facility. Such items can pose a serious risk to the safety and security of department members, individuals in custody, contractors and the public.

Nothing in this policy is intended to prohibit the otherwise lawful collection of evidence from an individual in custody.

### **902.2 POLICY**

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

### **902.3 FIELD AND TRANSPORTATION SEARCHES**

An officer should conduct a custody search of an individual immediately after his/her arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any department vehicle.

Whenever practicable, a custody search should be conducted by an officer of the same sex as the person being searched. If an officer of the same sex is not reasonably available, a witnessing officer should be present during the search.

### **902.4 SEARCHES AT POLICE FACILITIES**

Custody searches shall be conducted on all individuals in custody, upon entry to the Clovis Police Department facilities. Except in exigent circumstances, the search should be conducted by a member of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member must be present during the search.

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

#### **902.4.1 PROPERTY**

Members shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. The property should be inventoried in the individual's presence and sealed into the bag. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred.

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Some property may not be accepted by a facility or agency that is taking custody of an individual from this department, such as weapons or large items. These items should be retained for safekeeping in accordance with the Property and Evidence Policy.

All property shall be inventoried by objective description (this does not include an estimated value). The individual from whom it was taken shall be required to sign the completed inventory. If the individual's signature cannot be obtained, the inventory shall be witnessed by another department member. The inventory should include the case number, date, time, member's Clovis Police Department identification number and information regarding how and when the property may be released.

#### **902.5 STRIP SEARCHES**

No individual in temporary custody at any Clovis Police Department facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention or is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include, but are not limited to:

- (a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.
- (b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.
  - 1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.
- (c) Custody history (e.g., past possession of contraband while in custody, assaults on department members, escape attempts).
- (d) The individual's actions or demeanor.
- (e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual's genital status. If the individual's genital status is unknown, it may be determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

#### **902.5.1 STRIP SEARCH PROCEDURES**

Strip searches at Clovis Police Department facilities shall be conducted as follows (28 CFR 115.115; Penal Code § 4030):

- (a) Written authorization from the Watch Commander shall be obtained prior to the strip search.
- (b) All members involved with the strip search shall be of the same sex as the individual being searched, unless the search is conducted by a medical practitioner.

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- (c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that it cannot be observed by those not participating in the search. The search shall not be reproduced through a visual or sound recording.
- (d) Whenever possible, a second member of the same sex should also be present during the search, for security and as a witness to the finding of evidence.
- (e) Members conducting a strip search shall not touch the breasts, buttocks or genitalia of the individual being searched.
- (f) The primary member conducting the search shall prepare a written report to include:
  - 1. The facts that led to the decision to perform a strip search.
  - 2. The reasons less intrusive methods of searching were not used or were insufficient.
  - 3. The written authorization for the search, obtained from the Watch Commander.
  - 4. The name of the individual who was searched.
  - 5. The name and sex of the members who conducted the search.
  - 6. The name, sex and role of any person present during the search.
  - 7. The time and date of the search.
  - 8. The place at which the search was conducted.
  - 9. A list of the items, if any, that were recovered.
  - 10. The facts upon which the member based his/her belief that the individual was concealing a weapon or contraband.
- (g) No member should view an individual's private underclothing, buttocks, genitalia or female breasts while that individual is showering, performing bodily functions or changing clothes, unless he/she otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the individual with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the individual's consent and/or otherwise protect his/her privacy and dignity.
- (h) If the individual has been arrested for a misdemeanor or infraction offense, the written authorization from the Watch Commander shall include specific and articulable facts and circumstances upon which the reasonable suspicion determination for the search was made.
- (i) A copy of the written authorization shall be retained and made available upon request to the individual or the individual's authorized representative. A record of the time, date, place of the search, the name and sex of the person conducting the search, and

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a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

**902.5.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES**

A strip search may be conducted in the field only with Watch Commander authorization and only in exceptional circumstances, such as when:

- (a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search.
- (b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy, except that the Watch Commander authorization does not need to be in writing.

**902.6 PHYSICAL BODY CAVITY SEARCH**

Physical body cavity searches shall be subject to the following (Penal Code § 4030):

- (a) No individual shall be subjected to a physical body cavity search without written approval of the Watch Commander and only upon a search warrant. A copy of any search warrant and the results of the physical body cavity search shall be included with the related reports and made available, upon request, to the individual or authorized representative (except for those portions of the warrant ordered sealed by a court).
- (b) Only a physician, nurse practitioner, registered nurse, licensed vocational nurse or Emergency Medical Technician Level II licensed to practice in California may conduct a physical body cavity search.
- (c) Except for the physician or licensed medical personnel conducting the search, persons present must be of the same sex as the individual being searched. Only the necessary department members needed to maintain the safety and security of the medical personnel shall be present.
- (d) Privacy requirements, including restricted touching of body parts and sanitary condition requirements, are the same as required for a strip search.
- (e) All such searches shall be documented, including:
  - 1. The facts that led to the decision to perform a physical body cavity search of the individual.
  - 2. The reasons less intrusive methods of searching were not used or were insufficient.
  - 3. The Watch Commander's approval.



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4. A copy of the search warrant.
  5. The time, date and location of the search.
  6. The medical personnel present.
  7. The names, sex and roles of any department members present.
  8. Any contraband or weapons discovered by the search.
- (f) Copies of the written authorization and search warrant shall be retained and shall be provided to the individual who was searched or other authorized representative upon request. A record of the time, date, place of the search, the name and sex of the person conducting the search and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

**902.7 TRAINING**

The Training Coordinator shall ensure members have training that includes (28 CFR 115.115):

- (a) Conducting searches of cross-gender individuals.
- (b) Conducting searches of transgender and intersex individuals.
- (c) Conducting searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

## Prison Rape Elimination

### 904.1 PURPOSE AND SCOPE

This policy provides guidance for complying with the Prison Rape Elimination Act of 2003 (PREA) and the implementing regulation that establishes standards (PREA Rule) to prevent, detect, and respond to sexual abuse, harassment, and retaliation against detainees or prisoners in the Clovis Police Department Temporary Holding Facilities (28 CFR 115.111; 15 CCR 1029).

#### 904.1.1 DEFINITIONS

Definitions related to this policy include:

**Intersex** - A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development (28 CFR 115.5).

**Sexual abuse** - Any of the following acts, if the detainee does not consent, is coerced into such act by overt or implied threats of violence or is unable to consent or refuse (28 CFR 115.6; 15 CCR 1006):

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva, or anus
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument
- Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation

Sexual abuse also includes abuse by a staff member, contractor, or volunteer as follows, with or without consent of the detainee, prisoner, or resident:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva, or anus
- Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire
- Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties, or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire
- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties, or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire

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- Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described above
- Any display by a staff member, contractor, or volunteer of his/her uncovered genitalia, buttocks, or breast in the presence of a detainee, prisoner, or resident
- Voyeurism by a staff member, contractor, or volunteer

**Sexual harassment** - Repeated and unwelcome sexual advances; requests for sexual favors; verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one detainee, prisoner, or resident that are directed toward another; repeated verbal comments or gestures of a sexual nature to a detainee, prisoner, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures (28 CFR 115.6; 15 CCR 1006).

**Transgender** - A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth (28 CFR 115.5).

#### **904.2 POLICY**

The Clovis Police Department has zero tolerance toward all forms of sexual abuse and sexual harassment (28 CFR 115.111). The Department will not tolerate retaliation against any person who reports sexual abuse or sexual harassment or who cooperates with a sexual abuse or sexual harassment investigation.

The Clovis Police Department will take immediate action to protect detainees and prisoners who are reasonably believed to be subject to a substantial risk of imminent sexual abuse (28 CFR 115.162; 15 CCR 1029).

#### **904.3 PREA COORDINATOR**

The Chief of Police shall appoint an upper-level manager with sufficient time and authority to develop, implement, and oversee department efforts to comply with PREA standards in the Clovis Police Department Temporary Holding Facilities (28 CFR 115.111). The PREA Coordinator's responsibilities shall include:

- (a) Developing and maintaining procedures to comply with the PREA Rule.
- (b) Ensuring that any contract for the confinement of detainees or prisoners includes the requirement to adopt and comply with applicable PREA standards and the PREA Rule, including the obligation to provide incident-based and aggregated data, as required in 28 CFR 115.187 (28 CFR 115.112).
- (c) Developing a staffing plan to provide adequate levels of staffing and video monitoring, where applicable, in order to protect detainees and prisoners from sexual abuse (28 CFR 115.113; 15 CCR 1029). This includes documenting deviations and the reasons for deviations from the staffing plan, as well as reviewing the staffing plan a minimum of once per year.
- (d) Developing methods for staff to privately report sexual abuse and sexual harassment of detainees and prisoners (28 CFR 115.151).

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- (e) Developing a written plan to coordinate response among staff first responders, medical and mental health practitioners, investigators, and department leadership to an incident of sexual abuse (28 CFR 115.165).
- (f) Ensuring a protocol is developed for investigating allegations of sexual abuse in the Temporary Holding Facility. The protocol shall include (28 CFR 115.121; 28 CFR 115.122):
  - 1. Evidence collection practices that maximize the potential for obtaining usable physical evidence based on the most recent edition of the U.S. Department of Justice's (DOJ) Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents" or a similarly comprehensive and authoritative protocol.
  - 2. A process to ensure a criminal or administrative investigation is completed on all allegations of sexual abuse or sexual harassment.
  - 3. A process to document all referrals to other law enforcement agencies.
  - 4. Access to forensic medical examinations, without financial cost, for all victims of sexual abuse where appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The efforts to provide SAFEs or SANEs shall be documented.
  - 5. In accordance with security needs, provisions to permit, to the extent available, detainee and prisoner access to victim advocacy services if the detainee or prisoner is transported for a forensic examination to an outside hospital that offers such services.
- (g) Ensuring that detainees and prisoners with limited English proficiency and disabilities have an equal opportunity to understand and benefit from efforts to prevent, detect, and respond to sexual abuse and sexual harassment. This includes, as appropriate, access to interpreters and written materials in formats or through methods that provide effective communication to those with disabilities (e.g., limited reading skills, intellectual, hearing, or vision disabilities) (28 CFR 115.116).
  - 1. The agency shall not rely on other detainees or prisoners for assistance except in limited circumstances where an extended delay in obtaining an interpreter could compromise the detainee's or prisoner's safety, the performance of first-response duties under this policy, or the investigation of a prisoner's allegations of sexual abuse, harassment, or retaliation.
- (h) Publishing on the department's website:
  - 1. Information on how to report sexual abuse and sexual harassment on behalf of a detainee or prisoner (28 CFR 115.154).
  - 2. A protocol describing the responsibilities of the Department and any other investigating agency that will be responsible for conducting sexual abuse or sexual harassment investigations (28 CFR 115.122).

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- (i) Establishing a process that includes the use of a standardized form and set of definitions to ensure accurate, uniform data is collected for every allegation of sexual abuse at facilities under this agency's direct control (28 CFR 115.187; 34 USC § 30303; 15 CCR 1041).
  - 1. The data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence, conducted by DOJ, or any subsequent form developed by DOJ and designated for lockups.
  - 2. The data shall be aggregated at least annually.
- (j) Ensuring audits are conducted pursuant to 28 CFR 115.401 through 28 CFR 115.405 for all Temporary Holding Facilities used to house detainees or prisoners overnight (28 CFR 115.193).
- (k) Ensuring contractors or others who work in the Temporary Holding Facility are informed of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment (28 CFR 115.132).
- (l) Ensuring that information for uninvolved inmates, family, community members, and other interested third parties to report sexual abuse or sexual harassment is publicly posted at the facility (15 CCR 1029).

#### **904.4 REPORTING SEXUAL ABUSE, HARASSMENT, AND RETALIATION**

Detainees or prisoners may make reports to any staff member verbally, in writing, privately, or anonymously of any of the following (28 CFR 115.151; 15 CCR 1029):

- Sexual abuse
- Sexual harassment
- Retaliation by other detainees or prisoners or staff for reporting sexual abuse or sexual harassment
- Staff neglect or violation of responsibilities that may have contributed to sexual abuse or sexual harassment

During intake the Department shall notify all detainees and prisoners of the zero-tolerance policy regarding sexual abuse and sexual harassment, and of at least one way to report abuse or harassment to a public or private entity that is not part of the Department and that is able to receive and immediately forward detainee or prisoner reports of sexual abuse and sexual harassment to agency officials. This allows the detainee or prisoner to remain anonymous (28 CFR 115.132; 28 CFR 115.151).

##### **904.4.1 MEMBER RESPONSIBILITIES**

Department members shall accept reports from detainees, prisoners and third parties and shall promptly document all reports (28 CFR 115.151; 15 CCR 1029).

All members shall report immediately to the Watch Commander any knowledge, suspicion, or information regarding:

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- (a) An incident of sexual abuse or sexual harassment that occurs in the Temporary Holding Facility.
- (b) Retaliation against detainees or the member who reports any such incident.
- (c) Any neglect or violation of responsibilities on the part of any department member that may have contributed to an incident or retaliation (28 CFR 115.161).

No member shall reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment and investigation decisions.

#### **904.4.2 WATCH COMMANDER RESPONSIBILITIES**

The Watch Commander shall report to the department's designated investigators all allegations of sexual abuse, harassment, retaliation, neglect or violations leading to sexual abuse, harassment or retaliation. This includes third-party and anonymous reports (28 CFR 115.161).

If the alleged victim is under the age of 18 or considered a vulnerable adult, the Watch Commander shall also report the allegation as required under mandatory reporting laws and department policy.

Upon receiving an allegation that a detainee or prisoner was sexually abused while confined at another facility, the Watch Commander shall notify the head of the facility or the appropriate office of the agency where the alleged abuse occurred. The notification shall be made as soon as possible but no later than 72 hours after receiving the allegation. The Watch Commander shall document such notification (28 CFR 115.163).

If an alleged detainee or prisoner victim is transferred from the Temporary Holding Facility to a jail, prison or medical facility, the Department shall, as permitted by law, inform the receiving facility of the incident and the prisoner's potential need for medical or social services, unless the prisoner requests otherwise (28 CFR 115.165).

#### **904.5 INVESTIGATIONS**

The Department shall promptly, thoroughly and objectively investigate all allegations, including third-party and anonymous reports, of sexual abuse or sexual harassment. Only investigators who have received department-approved special training shall conduct sexual abuse investigations (28 CFR 115.171).

##### **904.5.1 FIRST RESPONDERS**

The first officer to respond to a report of sexual abuse or sexual assault shall (28 CFR 115.164):

- (a) Separate the parties.
- (b) Establish a crime scene to preserve and protect any evidence. Identify and secure witnesses until steps can be taken to collect any evidence.
- (c) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

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- (d) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

If the first responder is not an officer the responder shall request that the alleged victim not take any actions that could destroy physical evidence and should then notify a law enforcement staff member (28 CFR 115.164).

#### **904.5.2 INVESTIGATOR RESPONSIBILITIES**

Investigators shall (28 CFR 115.171):

- (a) Gather and preserve direct and circumstantial evidence, including any available physical and biological evidence and any available electronic monitoring data.
- (b) Interview alleged victims, suspects and witnesses.
- (c) Review any prior complaints and reports of sexual abuse involving the suspect.
- (d) Conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- (e) Assess the credibility of the alleged victim, suspect or witness on an individual basis and not by the person's status as a detainee or a member of the Clovis Police Department.
- (f) Document in written reports a description of physical, testimonial, documentary and other evidence, the reasoning behind any credibility assessments, and investigative facts and findings.
- (g) Refer allegations of conduct that may be criminal to the District Attorney for possible prosecution, including any time there is probable cause to believe a detainee or prisoner sexually abused another detainee or prisoner in the Temporary Holding Facility (28 CFR 115.178).
- (h) Cooperate with outside investigators and remain informed about the progress of any outside investigation.

#### **904.5.3 ADMINISTRATIVE INVESTIGATIONS**

Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse. The departure of the alleged abuser or victim from the employment or control of this department shall not be used as a basis for terminating an investigation (28 CFR 115.171).

#### **904.5.4 SEXUAL ASSAULT AND SEXUAL ABUSE VICTIMS**

No detainee or prisoner who alleges sexual abuse shall be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation (28 CFR 115.171(e)).

Detainee or prisoner victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment. Treatment services shall be provided to the victim without financial cost and

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regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident (28 CFR 115.182).

### **904.5.5 CONCLUSIONS AND FINDINGS**

All completed investigations shall be forwarded to the Chief of Police, or if the allegations may reasonably involve the Chief of Police, to the City Manager. The Chief of Police or City Manager shall review the investigation and determine whether any allegations of sexual abuse or sexual harassment have been substantiated by a preponderance of the evidence (28 CFR 115.172).

All personnel shall be subject to disciplinary sanctions up to and including termination for violating this policy. Termination shall be the presumptive disciplinary sanction for department members who have engaged in sexual abuse. All discipline shall be commensurate with the nature and circumstances of the acts committed, the member's disciplinary history and the sanctions imposed for comparable offenses by other members with similar histories (28 CFR 115.176).

All terminations for violations of this policy, or resignations by members who would have been terminated if not for their resignation, shall be criminally investigated unless the activity was clearly not criminal and reported to any relevant licensing body (28 CFR 115.176).

Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with detainees or prisoners and reported to any relevant licensing bodies (28 CFR 115.177). The Chief of Police shall take appropriate remedial measures and consider whether to prohibit further contact with detainees or prisoners by a contractor or volunteer.

### **904.6 RETALIATION PROHIBITED**

All detainees, prisoners and members who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation (28 CFR 115.167). If any other individual who cooperates with an investigation expresses a fear of retaliation, appropriate measures shall be taken to protect that individual.

The Watch Commander or the authorized designee shall employ multiple protection measures, such as housing changes or transfers for detainee or prisoner victims or abusers, removal of alleged abusers from contact with victims, and emotional support services for detainees, prisoners or members who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

The Watch Commander or the authorized designee shall identify a staff member to monitor the conduct and treatment of detainees, prisoners or members who have reported sexual abuse and of detainees or prisoners who were reported to have suffered sexual abuse. The staff member shall act promptly to remedy any such retaliation. In the case of detainees or prisoners, such monitoring shall also include periodic status checks.

### **904.7 REVIEWS AND AUDITS**



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**904.7.1 INCIDENT REVIEWS**

An incident review shall be conducted at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded. The review should occur within 30 days of the conclusion of the investigation. The review team shall include upper-level management officials and seek input from line supervisors and investigators (28 CFR 115.186).

The review shall (28 CFR 115.186):

- (a) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse.
- (b) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender or intersex identification, status or perceived status; gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility.
- (c) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.
- (d) Assess the adequacy of staffing levels in that area during different shifts.
- (e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

The review team shall prepare a report of its findings, including any determinations made pursuant to this section and any recommendations for improvement. The report shall be submitted to the Chief of Police and the PREA Coordinator. The Chief of Police or the authorized designee shall implement the recommendations for improvement or shall document the reasons for not doing so (28 CFR 115.186).

**904.7.2 DATA REVIEWS**

The facility shall conduct an annual review of collected and aggregated incident-based sexual abuse data. The review should include, as needed, data from incident-based documents, including reports, investigation files and sexual abuse incident reviews (28 CFR 115.187).

The purpose of these reviews is to assess and improve the effectiveness of sexual abuse prevention, detection and response policies, practices and training. An annual report shall be prepared that includes (28 CFR 115.188):

- (a) Identification of any potential problem areas.
- (b) Identification of any corrective actions taken.
- (c) Recommendations for any additional corrective actions.
- (d) A comparison of the current year's data and corrective actions with those from prior years.
- (e) An assessment of the Department's progress in addressing sexual abuse.

The report shall be approved by the Chief of Police and made readily available to the public through the department website or, if it does not have one, through other means. Material may be

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redacted from the reports when publication would present a clear and specific threat to the safety and security of the Temporary Holding Facility. However, the nature of the redacted material shall be indicated.

All aggregated sexual abuse data from Clovis Police Department facilities and private facilities with which it contracts shall be made readily available to the public at least annually through the department website or, if it does not have one, through other means. Before making aggregated sexual abuse data publicly available, all personal identifiers shall be removed (28 CFR 115.189).

#### **904.8 RECORDS**

The Department shall retain all written reports from administrative and criminal investigations pursuant to this policy for as long as the alleged abuser is held or employed by the Department, plus five years (28 CFR 115.171).

All other data collected pursuant to this policy shall be securely retained for at least 10 years after the date of the initial collection unless federal, state or local law requires otherwise (28 CFR 115.189).

#### **904.9 TRAINING**

All employees, volunteers and contractors who may have contact with detainees or prisoners shall receive department-approved training on the prevention and detection of sexual abuse and sexual harassment within this facility. The Training Coordinator shall be responsible for developing and administering this training as appropriate, covering at a minimum (28 CFR 115.131):

- The Department's zero-tolerance policy and the right of detainees and prisoners to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- The dynamics of sexual abuse and harassment in confinement settings, including which detainees and prisoners are most vulnerable.
- The right of detainees, prisoners and staff members to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- Detecting and responding to signs of threatened and actual abuse.
- Communicating effectively and professionally with all detainees and prisoners.
- Compliance with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

Investigators assigned to sexual abuse investigations shall also receive training in conducting such investigations in confinement settings. Training should include (28 CFR 115.134):

- Techniques for interviewing sexual abuse victims.
- Proper use of *Miranda* and *Garrity* warnings.
- Sexual abuse evidence collection in confinement settings.

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- Criteria and evidence required to substantiate a case for administrative action or prosecution referral.

The Training Coordinator shall maintain documentation that employees, volunteers, contractors and investigators have completed required training and that they understand the training. This understanding shall be documented through individual signature or electronic verification.

All current employees and volunteers who may have contact with detainees or prisoners shall be trained within one year of the effective date of the PREA standards. The agency shall provide annual refresher information to all such employees and volunteers to ensure that they understand the current sexual abuse and sexual harassment policies and procedures.

## **Chapter 10 - Personnel**

## **Recruitment and Selection**

### **1000.1 PURPOSE AND SCOPE**

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Clovis Police Department and that are promulgated and maintained by the Personnel Risk Management.

### **1000.2 POLICY**

In accordance with applicable federal, state and local law, the Clovis Police Department provides equal opportunities for applicants and employees, regardless of race, gender expression, age, pregnancy, religion, creed, color, national origin, ancestry, physical or mental handicap, genetic information, veteran status, marital status, sex or any other protected class or status. The Department does not show partiality or grant any special status to any applicant, employee or group of employees unless otherwise required by law.

The Department will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

### **1000.3 RECRUITMENT**

The Administration Division Commander should employ a comprehensive recruitment and selection strategy to recruit and select employees from a qualified and diverse pool of candidates.

The strategy should include:

- (a) Identification of racially and culturally diverse target markets.
- (b) Use of marketing strategies to target diverse applicant pools.
- (c) Expanded use of technology and maintenance of a strong Internet presence. This may include an interactive department website and the use of department-managed social networking sites, if resources permit.
- (d) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities and the military.

The Administration Division Commander shall avoid advertising, recruiting and screening practices that tend to stereotype, focus on homogeneous applicant pools or screen applicants in a discriminatory manner.

The Department should strive to facilitate and expedite the screening and testing process, and should periodically inform each candidate of his/her status in the recruiting process.

### **1000.4 SELECTION PROCESS**

The Department shall actively strive to identify a diverse group of candidates who have in some manner distinguished themselves as being outstanding prospects. Minimally, the Department

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### *Recruitment and Selection*

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should employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

- (a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)
- (b) Driving record
- (c) Reference checks
- (d) Employment eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents consistent with Labor Code § 1019.1. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.
- (e) Information obtained from public internet sites
- (f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)
- (g) Local, state, and federal criminal history record checks
- (h) Lie detector test (when legally permissible) (Labor Code § 432.2)
- (i) Medical and psychological examination (may only be given after a conditional offer of employment)
- (j) Review board or selection committee assessment

#### **1000.4.1 VETERAN'S PREFERENCE**

Qualifying veterans of the United States Armed Forces who receive a passing score on an entrance examination shall be ranked in the top rank of any resulting eligibility list. The veteran's preference shall also apply to a widow or widower of a veteran or a spouse of a 100 percent disabled veteran (Government Code § 18973.1).

#### **1000.5 BACKGROUND INVESTIGATION**

Every candidate shall undergo a thorough background investigation to verify his/her personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the Clovis Police Department (11 CCR 1953).

The narrative report and any other relevant background information shall be shared with the psychological evaluator. Information shall also be shared with others involved in the hiring process if it is relevant to their respective evaluations (11 CCR 1953).

#### **1000.5.1 NOTICES**

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and the California Investigative Consumer Reporting Agencies Act (15 USC § 1681d; Civil Code § 1786.16).

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#### **1000.5.2 STATE NOTICES**

If information disclosed in a candidate's criminal offender record information (CORI) is the basis for an adverse employment decision, a copy of the CORI shall be provided to the applicant (Penal Code § 11105).

#### **1000.5.3 REVIEW OF SOCIAL MEDIA SITES**

Due to the potential for accessing unsubstantiated, private, or protected information, the Administration Division Commander shall not require candidates to provide passwords, account information, or access to password-protected social media accounts (Labor Code § 980).

The Administration Division Commander should consider utilizing the services of an appropriately trained and experienced third party to conduct open source, internet-based searches, and/or review information from social media sites to ensure that:

- (a) The legal rights of candidates are protected.
- (b) Material and Information to be considered are verified, accurate, and validated.
- (c) The Department fully complies with applicable privacy protections and local, state, and federal law.

Regardless of whether a third party is used, the Administration Division Commander should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

#### **1000.5.4 DOCUMENTING AND REPORTING**

The background investigator shall summarize the results of the background investigation in a narrative report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation shall be included in the candidate's background investigation file (11 CCR 1953).

#### **1000.5.5 RECORDS RETENTION**

The background report and all supporting documentation shall be maintained in accordance with the established records retention schedule.

#### **1000.5.6 BACKGROUND INVESTIGATION UPDATE**

A background investigation update may, at the discretion of the Chief of Police, be conducted in lieu of a complete new background investigation on a peace officer candidate who is reappointed within 180 days of voluntary separation from the Clovis Police Department, or who is an interim police chief meeting the requirements contained in 11 CCR 1953(f).

#### **1000.6 DISQUALIFICATION GUIDELINES**

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

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- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

### **1000.7 EMPLOYMENT STANDARDS**

All candidates shall meet the minimum standards required by state law (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.). Candidates will be evaluated based on merit, ability, competence, and experience, in accordance with the high standards of integrity and ethics valued by the Department and the community. The California Commission on Peace Officer Standards and Training (POST) developed a Job Dimensions list, which is used as a professional standard in background investigations.

Validated, job-related, and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge, and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation. The Personnel Risk Management should maintain validated standards for all positions.

#### **1000.7.1 STANDARDS FOR OFFICERS**

Candidates shall meet the minimum standards established by POST (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.):

- (a) Free of any felony convictions
- (b) Citizen of the United States, or permanent resident alien eligible for and has applied for citizenship
- (c) At least 18 years of age
- (d) Fingerprinted for local, state and national fingerprint check
- (e) Good moral character as determined by a thorough background investigation (11 CCR 1953)



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- (f) High school graduate, passed the GED or other high school equivalency test or obtained a two-year, four-year or advanced degree from an accredited or approved institution
- (g) Free from any physical, emotional, or mental condition which might adversely affect the exercise of police powers (11 CCR 1954; 11 CCR 1955)
- (h) Candidates must also satisfy the POST selection requirements, including (11 CCR 1950 et seq.):
  - 1. Reading and writing ability assessment (11 CCR 1951)
  - 2. Oral interview to determine suitability for law enforcement service (11 CCR 1952)

In addition to the above minimum POST required standards, candidates may be subjected to additional standards established by the Department (Penal Code § 13510(d)).

#### **1000.7.2 STANDARDS FOR DISPATCHER**

Candidates shall satisfy the POST selection requirements, including (11 CCR 1956):

- (a) A verbal, reasoning, memory, and perceptual abilities assessment (11 CCR 1957)
- (b) An oral communication assessment (11 CCR 1958)
- (c) A medical evaluation (11 CCR 1960)

## Anti-Retaliation

### 1008.1 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, law, ordinance or memorandum of understanding.

### 1008.2 POLICY

The Clovis Police Department has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

### 1008.3 RETALIATION PROHIBITED

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

## *Anti-Retaliation*

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### **1008.4 COMPLAINTS OF RETALIATION**

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, command staff member, Chief of Police or the City Personnel Risk Manager.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false, with willful or reckless disregard for the truth or falsity of the information or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member's identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

### **1008.5 SUPERVISOR RESPONSIBILITIES**

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.
- (b) Receiving all complaints in a fair and impartial manner.
- (c) Documenting the complaint and any steps taken to resolve the problem.
- (d) Acknowledging receipt of the complaint, notifying the Chief of Police via the chain of command and explaining to the member how the complaint will be handled.
- (e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.
- (f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.
- (g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.
- (h) Not interfering with or denying the right of a member to make any complaint.
- (i) Taking reasonable steps to accommodate requests for assignment or schedule changes made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

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### *Anti-Retaliation*

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#### **1008.6 COMMAND STAFF RESPONSIBILITIES**

The Chief of Police should communicate to all supervisors the prohibition against retaliation.

Command staff shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

- (a) Communicating to all members the prohibition against retaliation.
- (b) The timely review of complaint investigations.
- (c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.
- (d) The timely communication of the outcome to the complainant.

#### **1008.7 WHISTLE-BLOWING**

California law protects members who (Labor Code § 1102.5; Government Code § 53296 et seq.):

- (a) Report a violation of a state or federal statute or regulation to a government or law enforcement agency, including the member's supervisor or any other member with the authority to investigate the reported violation.
- (b) Provide information or testify before a public body if the member has reasonable cause to believe a violation of law occurred.
- (c) Refuse to participate in an activity that would result in a violation of a state or federal statute or regulation.
- (d) File a complaint with a local agency about gross mismanagement or a significant waste of funds, abuse of authority or a substantial and specific danger to public health or safety. Members shall exhaust all available administrative remedies prior to filing a formal complaint.
- (e) Are family members who have engaged in any protected acts described above.

Members are encouraged to report any legal violations through the chain of command (Labor Code § 1102.5).

Members who believe they have been the subject of retaliation for engaging in such protected behaviors should promptly report it to a supervisor. Supervisors should refer the complaint to the Internal Affairs Unit for investigation pursuant to the Personnel Complaints Policy.

##### **1008.7.1 DISPLAY OF WHISTLE-BLOWER LAWS**

The Department shall display a notice to members regarding their rights and responsibilities under the whistle-blower laws, including the whistle-blower hotline maintained by the Office of the Attorney General (Labor Code § 1102.8).

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**1008.8 RECORDS RETENTION AND RELEASE**

The Records Supervisor shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

**1008.9 TRAINING**

The policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

## **Reporting of Employee Convictions**

### **1010.1 PURPOSE AND SCOPE**

Convictions of certain offenses may restrict or prohibit an employee's ability to properly perform official duties. Therefore, all employees shall be required to promptly notify the Department of any past and current criminal convictions.

The Administration Supervisor shall submit in a timely manner a notice to the Commission on Peace Officer Standards and Training (POST) of any appointment, termination, reinstatement, name change or status change regarding any peace officer, reserve peace officer, public safety dispatcher and records supervisor employed by this department (11 CCR 1003).

The Administration Supervisor shall submit in a timely manner a notice to POST of a felony conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this department or any former peace officer if this department was responsible for the investigation (11 CCR 1003).

### **1010.2 DOMESTIC VIOLENCE CONVICTIONS, OUTSTANDING WARRANTS AND RESTRAINING ORDERS**

California and federal law prohibit individuals convicted of, or having an outstanding warrant for, certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Penal Code § 29805).

All members are responsible for ensuring that they have not been disqualified from possessing a firearm by any such conviction or court order and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

### **1010.3 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS**

Government Code § 1029 prohibits any person convicted of a felony from being a peace officer in the State of California. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty or nolo contendere plea.

Convictions of certain violations of the Vehicle Code and other provisions of law may also place restrictions on an employee's ability to fully perform the duties of the job.

Outstanding warrants as provided in Penal Code § 29805 also place restrictions on a member's ability to possess a firearm.

Moreover, while legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by members of this department may be inherently in conflict with law enforcement duties and the public trust.

## *Reporting of Employee Convictions*

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### **1010.4 REPORTING PROCEDURE**

All members of this department and all retired officers with an identification card issued by the Department shall promptly notify their immediate supervisor (or the Chief of Police in the case of retired officers) in writing of any past or current criminal arrest, outstanding warrant or conviction regardless of whether or not the matter is currently on appeal and regardless of the penalty or sentence, if any.

All members and all retired officers with an identification card issued by the Department shall further promptly notify their immediate supervisor (or the Chief of Police in the case of retired officers) in writing if the member or retiree becomes the subject of a domestic violence restraining order or similar court order or becomes the subject of an outstanding warrant.

Any member whose criminal conviction unduly restricts or prohibits that member from fully and properly performing his/her duties may be disciplined including, but not limited to, being placed on administrative leave, reassignment and/or termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the member on his/her own time and expense.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline.

### **1010.5 PROCEDURE FOR RELIEF**

Pursuant to Penal Code § 29855, a peace officer may petition the court for permission to carry a firearm following a conviction under state law. Federal law, however, does not provide for any such similar judicial relief and the granting of a state court petition under Penal Code § 29855 will not relieve one of the restrictions imposed by federal law. Therefore, relief for any employee falling under the restrictions imposed by federal law may only be obtained by expungement of the conviction. Each employee shall seek relief from firearm restrictions on their own time and through their own resources.

Pursuant to Family Code § 6389(h), an individual may petition the court for an exemption to any restraining order, which would thereafter permit the individual to carry a firearm as a part of their employment. Relief from any domestic violence or other restriction shall also be pursued through the employee's own resources and on the employee's own time.

Pending satisfactory proof of relief from any legal restriction imposed on an employee's duties, the employee may be placed on administrative leave, reassigned or disciplined. The Department may, but is not required to return an employee to any assignment, reinstate any employee or reverse any pending or imposed discipline upon presentation of satisfactory proof of relief from any legal restriction set forth in this policy.

## **Alcohol and Drug Use Policy**

### **1012.1 PURPOSE AND SCOPE**

The intent of this policy is to deter the misuse or abuse of legal or illegal substances that create a threat to the safety and health of any employee or member of the public. The Clovis Police Department discourages alcohol and drug abuse and strives to achieve a workforce free from the influence of drugs and alcohol.

### **1012.2 GENERAL GUIDELINES**

Alcohol and drug use in the workplace or on department time can endanger the health and safety of department members and the public. Such use shall not be tolerated (41 USC § 8103).

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify the Watch Commander or appropriate supervisor as soon as the member is aware that he/she will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, he/she shall be immediately removed and released from work (see Work Restrictions in this policy).

#### **1012.2.1 USE OF MEDICATIONS**

Members should avoid taking any medications that will impair their ability to safely and completely perform their duties. Any member who is medically required or has a need to take any such medication shall report that need to his/her immediate supervisor prior to commencing any on-duty status.

No member shall be permitted to work or drive a vehicle owned or leased by the Department while taking any medication that has the potential to impair his/her abilities, without a written release from his/her physician.

#### **1012.2.2 USE OF MARIJUANA**

Possession of marijuana, including medical marijuana, or being under the influence of marijuana on- or off-duty is prohibited and may lead to disciplinary action.

### **1012.3 MEMBER RESPONSIBILITIES**

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances, illegal performance enhancing drugs, or alcohol on department premises or on department time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.



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### *Alcohol and Drug Use Policy*

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Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow member poses a risk to the health and safety of the member or others due to drug or alcohol use.

Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC § 8103).

#### **1012.4 EMPLOYEE ASSISTANCE PROGRAM**

There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and drug problems (41 USC § 8103). Insurance coverage that provides treatment for drug and alcohol abuse also may be available. Employees should contact the Personnel Risk Management, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

#### **1012.5 WORK RESTRICTIONS**

If a member informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the Department.

#### **1012.6 REQUESTING SCREENING TESTS**

The supervisor may request an employee to submit to a screening test under the following circumstances:

- (a) The supervisor reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs that are impairing his/her ability to perform duties safely and efficiently.
- (b) The employee discharges a firearm, other than by accident, in the performance of his/her duties.
- (c) During the performance of his/her duties, the employee drives a motor vehicle and becomes involved in an incident that results in bodily injury to him/herself or another person, or substantial damage to property.

#### **1012.7 COMPLIANCE**

Employees must, as a condition of employment, abide by the terms of this policy, and report any conviction under a criminal drug statute for violations occurring on or off City premises while

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conducting City business. A report of a conviction must be made as soon as possible, but in no case more than five business days after the conviction.

**1012.8 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT**

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Department will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

## **Sick Leave**

### **1014.1 PURPOSE AND SCOPE**

This policy provides general guidance regarding the use and processing of sick leave. The accrual and terms of use of sick leave for eligible employees are detailed in the City personnel manual or applicable collective bargaining agreement.

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) (29 USC § 2601 et seq.) and the California Family Rights Act, and leave related to domestic violence, sexual assault, stalking or for organ or bone marrow donor procedures (29 CFR 825; Government Code § 12945.2; Labor Code § 230.1; Labor Code § 1510).

### **1014.2 POLICY**

It is the policy of the Clovis Police Department to provide eligible employees with a sick leave benefit.

### **1014.3 USE OF SICK LEAVE**

Sick leave is intended to be used for qualified absences. Sick leave is not considered vacation. Abuse of sick leave may result in discipline, denial of sick leave benefits, or both.

Employees on sick leave shall not engage in other employment or self-employment or participate in any sport, hobby, recreational activity or other activity that may impede recovery from the injury or illness (see Outside Employment Policy).

Qualified appointments should be scheduled during a member's non-working hours when it is reasonable to do so.

#### **1014.3.1 NOTIFICATION**

All members should notify the Watch Commander or appropriate supervisor as soon as they are aware that they will not be able to report to work and no less than one hour before the start of their scheduled shifts. If, due to an emergency, a member is unable to contact the supervisor, every effort should be made to have a representative for the member contact the supervisor (Labor Code § 246 ).

When the necessity to be absent from work is foreseeable, such as planned medical appointments or treatments, the member shall, whenever possible and practicable, provide the Department with no less than 30 days' notice of the impending absence (Labor Code § 246).

Upon return to work, members are responsible for ensuring their time off was appropriately accounted for, and for completing and submitting the required documentation describing the type of time off used and the specific amount of time taken.

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### **1014.4 EXTENDED ABSENCE**

Members absent from duty for more than three consecutive days may be required to furnish a statement from a health care provider supporting the need to be absent and/or the ability to return to work. Members on an extended absence shall, if possible, contact their supervisor at specified intervals to provide an update on their absence and expected date of return.

Nothing in this section precludes a supervisor from requiring, with cause, a health care provider's statement for an absence of three or fewer days after the first three days of paid sick leave are used in a 12-month period.

### **1014.5 REQUIRED NOTICES**

The Personnel Risk Manager shall ensure:

- (a) Written notice of the amount of paid sick leave available is provided to employees as provided in Labor Code § 246.
- (b) A poster is displayed in a conspicuous place for employees to review that contains information on paid sick leave as provided in Labor Code § 247.

### **1014.6 SUPERVISOR RESPONSIBILITIES**

The responsibilities of supervisors include, but are not limited to:

- (a) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences is consistent with this policy.
- (b) Attempting to determine whether an absence of four or more days may qualify as family medical leave and consulting with legal counsel or the Personnel Risk Management as appropriate.
- (c) Addressing absences and sick leave use in the member's performance evaluation when excessive or unusual use has:
  - 1. Negatively affected the member's performance or ability to complete assigned duties.
  - 2. Negatively affected department operations.
- (d) When appropriate, counseling members regarding excessive absences and/or inappropriate use of sick leave.
- (e) Referring eligible members to an available employee assistance program when appropriate.

## Communicable Diseases

### 1016.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of department members contracting and/or spreading communicable diseases.

#### 1016.1.1 DEFINITIONS

Definitions related to this policy include:

**Communicable disease** - A human disease caused by microorganisms that are present in and transmissible through human blood, bodily fluid, tissue, or by breathing or coughing. These diseases commonly include, but are not limited to, hepatitis B virus (HBV), HIV and tuberculosis.

**Exposure** - When an eye, mouth, mucous membrane or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing or coughing (e.g., tuberculosis), or the individual is in an area that was occupied by such a person. Exposure only includes those instances that occur due to a member's position at the Clovis Police Department. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

### 1016.2 POLICY

The Clovis Police Department is committed to providing a safe work environment for its members. Members should be aware that they are ultimately responsible for their own health and safety.

### 1016.3 EXPOSURE CONTROL OFFICER

The Chief of Police will assign a person as the Exposure Control Officer (ECO). The ECO shall develop an exposure control plan that includes:

- (a) Exposure-prevention and decontamination procedures.
- (b) Procedures for when and how to obtain medical attention in the event of an exposure or suspected exposure.
- (c) The provision that department members will have no-cost access to the appropriate personal protective equipment (PPE) (e.g., gloves, face masks, eye protection, pocket masks) for each member's position and risk of exposure.
- (d) Evaluation of persons in custody for any exposure risk and measures to separate them (15 CCR 1051; 15 CCR 1207).
- (e) Compliance with all relevant laws or regulations related to communicable diseases, including:
  1. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff-136).
  2. Bloodborne pathogen mandates including (8 CCR 5193):

## Communicable Diseases

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- (a) Sharps injury log.
  - (b) Needleless systems and sharps injury protection.
- 3. Airborne transmissible disease mandates including (8 CCR 5199):
  - (a) Engineering and work practice controls related to airborne transmissible diseases.
  - (b) Distribution of appropriate personal protective equipment to minimize exposure to airborne disease.
- 4. Promptly notifying the county health officer regarding member exposures (Penal Code § 7510).
- 5. Establishing procedures to ensure that members request exposure notification from health facilities when transporting a person that may have a communicable disease and that the member is notified of any exposure as required by Health and Safety Code § 1797.188.
- 6. Informing members of the provisions of Health and Safety Code § 1797.188 (exposure to communicable diseases and notification).
- (f) Provisions for acting as the designated officer liaison with health care facilities regarding communicable disease or condition exposure notification. The designated officer should coordinate with other department members to fulfill the role when not available. The designated officer shall ensure that the name, title and telephone number of the designated officer is posted on the Department website (Health and Safety Code § 1797.188).

The ECO should also act as the liaison with the Division of Occupational Safety and Health (Cal/ OSHA) and may request voluntary compliance inspections. The ECO shall annually review and update the exposure control plan and review implementation of the plan (8 CCR 5193).

### **1016.4 EXPOSURE PREVENTION AND MITIGATION**

#### **1016.4.1 GENERAL PRECAUTIONS**

All members are expected to use good judgment and follow training and procedures related to mitigating the risks associated with communicable disease. This includes, but is not limited to (8 CCR 5193):

- (a) Stocking disposable gloves, antiseptic hand cleanser, CPR masks or other specialized equipment in the work area or department vehicles, as applicable.
- (b) Wearing department-approved disposable gloves when contact with blood, other potentially infectious materials, mucous membranes and non-intact skin can be reasonably anticipated.
- (c) Washing hands immediately or as soon as feasible after removal of gloves or other PPE.
- (d) Treating all human blood and bodily fluids/tissue as if it is known to be infectious for a communicable disease.

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- (e) Using an appropriate barrier device when providing CPR.
- (f) Using a face mask or shield if it is reasonable to anticipate an exposure to an airborne transmissible disease.
- (g) Decontaminating non-disposable equipment (e.g., flashlight, control devices, clothing and portable radio) as soon as possible if the equipment is a potential source of exposure.
  - 1. Clothing that has been contaminated by blood or other potentially infectious materials shall be removed immediately or as soon as feasible and stored/decontaminated appropriately.
- (h) Handling all sharps and items that cut or puncture (e.g., needles, broken glass, razors, knives) cautiously and using puncture-resistant containers for their storage and/or transportation.
- (i) Avoiding eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses where there is a reasonable likelihood of exposure.
- (j) Disposing of biohazardous waste appropriately or labeling biohazardous material properly when it is stored.

**1016.4.2 IMMUNIZATIONS**

Members who could be exposed to HBV due to their positions may receive the HBV vaccine and any routine booster at no cost (8 CCR 5193).

**1016.5 POST EXPOSURE**

**1016.5.1 INITIAL POST-EXPOSURE STEPS**

Members who experience an exposure or suspected exposure shall:

- (a) Begin decontamination procedures immediately (e.g., wash hands and any other skin with soap and water, flush mucous membranes with water).
- (b) Obtain medical attention as appropriate.
- (c) Notify a supervisor as soon as practicable.

**1016.5.2 REPORTING REQUIREMENTS**

The supervisor on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented (8 CCR 5193):

- (a) Name and Social Security number of the member exposed
- (b) Date and time of the incident
- (c) Location of the incident
- (d) Potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)
- (e) Work being done during exposure

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- (f) How the incident occurred or was caused
- (g) PPE in use at the time of the incident
- (h) Actions taken post-event (e.g., clean-up, notifications)

The supervisor shall advise the member that disclosing the identity and/or infectious status of a source to the public or to anyone who is not involved in the follow-up process is prohibited. The supervisor should complete the incident documentation in conjunction with other reporting requirements that may apply (see the Occupational Disease and Work-Related Injury Reporting Policy).

### **1016.5.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT**

Department members shall have the opportunity to have a confidential medical evaluation immediately after an exposure and follow-up evaluations as necessary (8 CCR 5193).

The ECO should request a written opinion/evaluation from the treating medical professional that contains only the following information:

- (a) Whether the member has been informed of the results of the evaluation.
- (b) Whether the member has been notified of any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

No other information should be requested or accepted by the ECO.

### **1016.5.4 COUNSELING**

The Department shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure (8 CCR 5193).

### **1016.5.5 SOURCE TESTING**

Testing a person for communicable diseases when that person was the source of an exposure should be done when it is desired by the exposed member or when it is otherwise appropriate (8 CCR 5193). Source testing is the responsibility of the ECO. If the ECO is unavailable to seek timely testing of the source, it is the responsibility of the exposed member's supervisor to ensure testing is sought.

Source testing may be achieved by:

- (a) Obtaining consent from the individual.
- (b) Complying with the statutory scheme of Health and Safety Code § 121060. This includes seeking consent from the person who was the source of the exposure and seeking a court order if consent is not given.
- (c) Testing the exposed member for evidence of a communicable disease and seeking consent from the source individual to either access existing blood samples for testing or for the source to submit to testing (Health and Safety Code § 120262).
- (d) Taking reasonable steps to immediately contact the County Health Officer and provide preliminary information regarding the circumstances of the exposure and the status



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of the involved individuals to determine whether the County Health Officer will order testing (Penal Code § 7510).

- (e) Under certain circumstances, a court may issue a search warrant for the purpose of HIV testing a person when the exposed member qualifies as a crime victim (Penal Code § 1524.1).

Since there is the potential for overlap between the different manners in which source testing may occur, the ECO is responsible for coordinating the testing to prevent unnecessary or duplicate testing.

The ECO should seek the consent of the individual for testing and consult the City Attorney to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

### **1016.6 CONFIDENTIALITY OF REPORTS**

Medical information shall remain in confidential files and shall not be disclosed to anyone without the member's written consent (except as required by law). Test results from persons who may have been the source of an exposure are to be kept confidential as well.

### **1016.7 TRAINING**

All members shall participate in training regarding communicable diseases commensurate with the requirements of their position. The training (8 CCR 5193):

- (a) Shall be provided at the time of initial assignment to tasks where an occupational exposure may take place and at least annually after the initial training.
- (b) Shall be provided whenever the member is assigned new tasks or procedures affecting his/her potential exposure to communicable disease.
- (c) Should provide guidance on what constitutes an exposure, what steps can be taken to avoid an exposure and what steps should be taken if a suspected exposure occurs.

## **Smoking and Tobacco Use**

### **1018.1 PURPOSE AND SCOPE**

This policy establishes limitations on smoking and the use of tobacco products by members and others while on-duty or while in Clovis Police Department facilities or vehicles.

For the purposes of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

### **1018.2 POLICY**

The Clovis Police Department recognizes that tobacco use is a health risk and can be offensive to others.

Smoking and tobacco use also presents an unprofessional image for the Department and its members. Therefore smoking and tobacco use is prohibited by members and visitors in all department facilities, buildings and vehicles, and as is further outlined in this policy (Government Code § 7597; Labor Code § 6404.5).

### **1018.3 SMOKING AND TOBACCO USE**

Smoking and tobacco use by members is prohibited anytime members are in public view representing the Clovis Police Department.

It shall be the responsibility of each member to ensure that no person under his/her supervision smokes or uses any tobacco product inside City facilities and vehicles.

### **1018.4 ADDITIONAL PROHIBITIONS**

No person shall use tobacco products within 20 feet of a main entrance, exit or operable window of any public building (including any department facility), or buildings on the campuses of the University of California, California State University and California community colleges, whether present for training, enforcement or any other purpose (Government Code § 7596 et seq.).

#### **1018.4.1 NOTICE**

The Chief of Police or the authorized designee should ensure that proper signage is posted at each entrance to the Department facility (Labor Code § 6404.5).

## **Personnel Complaints**

### **1020.1 PURPOSE AND SCOPE**

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Clovis Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

#### **1020.1.1 PERSONNEL COMPLAINTS DEFINED**

Personnel complaints consist of any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state or local law.

Inquiries about employee conduct which, even if true, would not qualify as a personnel complaint may be handled informally by a department supervisor and shall not be considered complaints.

### **1020.2 POLICY**

The Clovis Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

#### **1020.2.1 AVAILABILITY OF COMPLAINT FORMS**

Personnel complaint forms will be maintained in a clearly visible location in the public lobby. Forms may also be available at other government facilities.

#### **1020.2.2 SOURCE OF COMPLAINTS**

- (a) A department employee becoming aware of alleged misconduct shall immediately notify a supervisor.
- (b) A supervisor receiving a complaint from any source alleging misconduct of an employee which, if true, could result in disciplinary action.
- (c) Anonymous complaints and third party complaints should be accepted and investigated to the extent that sufficient information is provided.

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### **1020.2.3 ACCEPTANCE OF COMPLAINTS**

A complaint may be filed in person, in writing, or by telephoning the Department. Although not required, every effort should be made to have the complainant appear in person. The following should be considered before taking a complaint:

- (a) Complaints shall not be prepared unless the alleged misconduct or job performance is of a nature which, if true, would normally result in disciplinary action
- (b) When an uninvolved supervisor or the Watch Commander determines that the reporting person is satisfied that their complaint required nothing more than an explanation regarding the proper/improper implementation of department policy or procedure, a complaint need not be taken
- (c) When the complainant is intoxicated to the point where his/her credibility appears to be unreliable, identifying information should be obtained and the person should be provided with a Personnel Complaint form
- (d) Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with their parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint

### **1020.2.4 COMPLAINT DOCUMENTATION**

Complaints of alleged misconduct shall be documented by a supervisor in memorandum form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible

When a Personnel Complaint form is completed in person, the complainant should legibly write a detailed narrative of his/her complaint. If circumstances indicate that this is not feasible, the complaint may be dictated to the receiving supervisor. In an effort to ensure accuracy in any complaint, it is recommended that a recorded statement be obtained from the reporting party. A refusal by a party to be recorded shall not alone be grounds to refuse to accept a complaint. Whether handwritten or dictated, the complainant's signature should be obtained at the conclusion of the statement. The complainant should be provided with a copy of his/her own original complaint per Penal Code § 832.7.

### **1020.3 SUPERVISOR RESPONSIBILITY**

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the employee's immediate supervisor. The Chief of Police or authorized designee may, however, direct that another supervisor investigate it. The supervisor shall be responsible for the following:

- (a) A supervisor receiving a formal complaint involving allegations of a potentially serious nature shall ensure that the Watch Commander, Commanding Officer and Chief of Police are notified as soon as practicable.

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## Personnel Complaints

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- (b) A supervisor receiving or initiating any formal complaint shall ensure that a Personnel Complaint form has been completed as fully as possible. The original complaint form will then be directed to the Commanding Officer of the accused employee, via the chain of command, who will take appropriate action or forward the complaint to the Internal Affairs Unit for further action.
  - 1. During the preliminary investigation of any complaint, the supervisor should make every reasonable effort to obtain names, addresses and telephone numbers of additional witnesses.
  - 2. Once immediate medical attention has been provided, photographs of alleged injuries as well as accessible areas of non-injury should be taken.
  - 3. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the employee's Division Commander or the Chief of Police who will initiate appropriate action.
- (c) A supervisor dealing with an accused employee shall ensure that the procedural rights of the employee are followed pursuant to Government Code § 3303, et seq.
- (d) When the nature of a personnel complaint relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination, the supervisor receiving the complaint shall promptly contact the Chief of Police for direction regarding their role in investigation and/or addressing the complaint.

### **1020.4 ASSIGNMENT TO ADMINISTRATIVE LEAVE**

When a complaint of misconduct is of a serious nature or when circumstances practically dictate that it would impose an unreasonable risk to the Department, the employee, other employees or the public, a supervisor may assign the accused employee to inactive duty pending completion of the investigation or the filing of administrative charges.

#### **1020.4.1 ADMINISTRATIVE LEAVE**

An employee placed on administrative leave may be subject to the following guidelines:

- (a) Under such circumstances, an employee placed on administrative leave shall continue to receive regular pay and benefits pending the imposition of any discipline
- (b) An employee placed on administrative leave may be required by a supervisor to relinquish any badge, departmental identification, assigned weapon(s) and any other departmental equipment
- (c) An employee placed on administrative leave may be ordered to refrain from taking any action as a departmental employee or in an official capacity. The employee shall be required to continue to comply with all policies and lawful orders of a supervisor

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- (d) An employee placed on administrative leave may be temporarily reassigned to a different shift (generally normal business hours) during the pendency of the investigation and the employee may be required to remain available for contact at all times during such shift and report as ordered
- (e) It shall be the responsibility of the assigning supervisor to promptly notify the employee's Division Commander and the Chief of Police
- (f) At such time as any employee placed on administrative leave is returned to full and regular duty, the employee shall be returned to their regularly assigned shift with all badges, identification card and other equipment returned

### **1020.5 ALLEGATIONS OF CRIMINAL CONDUCT**

Where an employee of this department is accused of potential criminal conduct, a separate supervisor or assigned detective shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practical when an employee is formally accused of criminal conduct. In the event of serious criminal allegations, the Chief of Police may request a criminal investigation by an outside law enforcement agency.

An employee accused of criminal conduct shall be provided with all rights and privileges afforded to a civilian and the employee may not be administratively ordered to provide any information to a criminal detective.

No information or evidence administratively coerced from an employee may be provided to a criminal detective.

Any law enforcement agency is authorized to release information concerning the arrest or detention of a peace officer, which has not led to a conviction, however, no disciplinary action, other than paid administrative leave shall be taken against the accused employee based solely on an arrest or crime report (Labor Code § 432.7(b)). An independent administrative investigation shall be conducted based upon the allegations in the report in accordance with department policy.

### **1020.6 ADMINISTRATIVE INVESTIGATION OF COMPLAINT**

Whether conducted by a supervisor or an assigned member of the Internal Affairs Unit, the following procedures shall be followed with regard to the accused employee(s):

- (a) Interviews of accused employees shall be conducted during reasonable hours and, if the employee is off-duty, the employee shall be compensated (Government Code § 3303(a)).
- (b) No more than two interviewers may ask questions of an accused employee (Government Code § 3303(b)).

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- (c) Prior to any interview, an employee shall be informed of the nature of the investigation (Government Code § 3303(c)).
- (d) All interviews shall be for a reasonable period and the employee's personal needs shall be accommodated (Government Code § 3303(d)).
- (e) No employee shall be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively or be subject to discipline for insubordination. Nothing administratively ordered may be provided to a criminal investigator (Government Code § 3303(e)).
- (f) Absent circumstances preventing it, the interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview (Government Code § 3303(g)).
- (g) If the allegations involve potential criminal conduct, the employee shall be advised of his/her Constitutional rights pursuant to *Lybarger*. This admonishment shall be given administratively whether or not the employee was advised of these rights during any separate criminal investigation. (Government Code § 3303(h)).
- (h) All employees subjected to interviews that could result in punitive action shall have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual employee's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed (Government Code § 3303(i)).
- (i) All employees shall provide complete and truthful responses to questions posed during interviews.
- (j) No employee may be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).
- (k) No investigation shall be undertaken against any officer solely because the officer has been placed on a prosecutor's *Brady* list or the name of the officer may otherwise be subject to disclosure pursuant to *Brady v. Maryland*. However, an investigation may be based on the underlying acts or omissions for which the officer has been placed on a *Brady* list or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (Government Code § 3305.5).

### 1020.6.1 ADMINISTRATIVE SEARCHES

Any employee may be compelled to disclose personal financial information pursuant to proper legal process; if such information tends to indicate a conflict of interest with official duties, or, if the

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employee is assigned to or being considered for a special assignment with a potential for bribes (Government Code § 3308).

Employees shall have no expectation of privacy when using telephones, computers, radios or other communications provided by the Department.

Assigned lockers and storage spaces may only be administratively searched in the employee's presence, with the employee's consent, with a valid search warrant or where the employee has been given reasonable notice that the search will take place (Government Code § 3309).

All other departmentally assigned areas (e.g., desks, office space, assigned vehicles) may be administratively searched by a supervisor, in the presence of an uninvolved witness, for non-investigative purposes. (e.g., obtaining a needed report or radio). An investigative search of such areas shall only be conducted upon a reasonable suspicion that official misconduct is involved.

#### 1020.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Internal Affairs Unit, the following applies to members covered by the Public Safety Officers Procedural Bill of Rights Act (POBR) (Government Code § 3303):

- (a) Interviews of an accused member shall be conducted during reasonable hours and preferably when the member is on-duty. If the member is off-duty, he/she shall be compensated.
- (b) Unless waived by the member, interviews of an accused member shall be at the Clovis Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused member.
- (d) Prior to any interview, a member shall be informed of the nature of the investigation, the name, rank and command of the officer in charge of the investigation, the interviewing officers and all other persons to be present during the interview.
- (e) All interviews shall be for a reasonable period and the member's personal needs should be accommodated.
- (f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
- (g) A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a Lybarger advisement and after the investigator has consulted with the prosecuting agency.
- (h) The interviewer shall record all interviews of members and witnesses. The member may also record the interview. If the member has been previously interviewed, a copy of that recorded interview shall be provided to the member prior to any subsequent interview.



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- (i) All members subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the Integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (j) All members shall provide complete and truthful responses to questions posed during interviews.
- (k) No member may be requested or compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

No investigation shall be undertaken against any officer solely because the officer has been placed on a prosecutor's Brady list or the name of the officer may otherwise be subject to disclosure pursuant to Brady v. Maryland. However, an investigation may be based on the underlying acts or omissions for which the officer has been placed on a Brady list or may otherwise be subject to disclosure pursuant to Brady v. Maryland (Government Code § 3305.5).

#### 1020.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Investigations of personnel complaints shall be detailed, complete and essentially follow this format:

- (a) Introduction - Include the identity of the employee(s), the identity of the assigned Investigator(s), the initial date and source of the complaint.
- (b) Synopsis - Provide a very brief summary of the facts giving rise to the investigation.
- (c) Summary Of Allegations - List the allegations separately (including applicable policy sections) with a very brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.
- (d) Evidence As To Each Allegation - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of employee and witness statements. Other evidence related to each allegation should also be detailed in this section.
- (e) Conclusion - A recommendation regarding further action or disposition should be provided.
- (f) Exhibits - A separate list of exhibits (recordings, photos, documents, etc.) should be attached to the report.

#### 1020.7 DISPOSITION OF PERSONNEL COMPLAINTS

Each allegation shall be classified with one of the following dispositions:

**Unfounded** - When the investigation discloses that the alleged act(s) did not occur or did not involve department personnel. Complaints which are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.5(c)).

**Exonerated** - When the investigation discloses that the alleged act occurred, but that the act was justified, lawful and/or proper.

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**Not Sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.

**Sustained** - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If an investigation discloses misconduct or improper job performance which was not alleged in the original complaint, the Investigator shall take appropriate action with regard to any additional allegations.

### **1020.8 COMPLETION OF INVESTIGATIONS**

Every investigator or supervisor assigned to investigate a personnel complaint shall proceed with due diligence. Recognizing that factors such as witness availability and the complexity of allegations will affect each case, every effort should be made to complete each investigation within a reasonable period following receipt. If the nature of the allegations dictate that confidentiality is necessary to maintain the integrity of the investigation, the involved employee(s) need not be notified of the pending investigation unless and until the employee is interviewed or formally charged.

If the complaining party is charged with a criminal offense associated with this investigation, then the investigation may be suspended until the completion of the criminal trial.

Upon completion, the report should be forwarded to the Commander with IA oversight.

Once received, the Chief of Police may accept or modify the classification and recommendation for disciplinary action contained in the report.

Within 30 days of the final review by the Chief of Police, written notice of the findings shall be sent to the complaining party. This notice shall indicate the findings, however, will not disclose the amount of discipline, if any imposed.

Any complaining party who is not satisfied with the findings of the Department concerning their complaint may contact the Chief of Police to discuss the matter further.

#### **1020.8.1 CONFIDENTIALITY OF PERSONNEL FILES**

All investigations of personnel complaints, whether originating from a citizen or internally, shall be considered confidential peace officer personnel files regardless of how they are maintained, unless otherwise provided by law. The contents of such files shall not be revealed to other than the involved employee or authorized personnel except pursuant to lawful process.

In the event that an accused employee (or the representative of such employee) knowingly makes false representations regarding any internal investigation and such false representations are communicated to any media source, the Department may disclose sufficient information from the employee's personnel file to refute such false representations (Penal Code § 832.5).

Consistent with California Government Code section 34090 et seq. and Penal Code section 832.5, sustained citizen complaints, internal complaints and all associated disciplinary actions shall be

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retained by the Department for a minimum of five (5) years from the date of the closure of the complaint or final disciplinary action. The department shall purge documents in accordance with policy 1026.10 and the city's record retention policy.

Sustained complaints may be maintained in a separate physical file, but either a copy of the contents of such file or a reference to the presence of a separate physical file and any discipline related thereto, if any, shall be maintained in the employee's main personnel file kept in the department. Complaints which are unfounded, exonerated or not sustained shall be maintained by the Internal Affairs Unit in a separate physical file and apart from the employee's main personnel file.

## Seat Belts

### 1022.1 PURPOSE AND SCOPE

The use of seat belts and other safety restraints significantly reduces the chance of death or injury in case of a traffic collision. This policy establishes guidelines for seat belt and child safety seat use to promote maximum operator and passenger safety, thus reducing the possibility of death or injury as the result of a motor vehicle crash. This policy will apply to all employees operating or riding in department vehicles (Vehicle Code § 27315.5).

#### 1022.1.1 DEFINITIONS

Definitions related to this policy include:

**Child restraint system** - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards (FMVSS) and Regulations set forth in 49 CFR 571.213.

### 1022.2 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including non-members, are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the member or the public. Members must be prepared to justify any deviation from this requirement.

### 1022.3 TRANSPORTING SUSPECTS, PRISONERS OR ARRESTEES

Suspects, prisoners and arrestees should be in a seated position and secured in the rear seat of any department vehicle with a prisoner restraint system or, when a prisoner restraint system is not available, by seat belts provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

Prisoners in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

### 1022.4 INOPERABLE SEAT BELTS

Department vehicles shall not be operated when the seat belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the seat belt is inoperable.

Department vehicle seat belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief of Police.

Members who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

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### **1022.5 POLICY**

It is the policy of the Clovis Police Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

### **1022.6 TRANSPORTING CHILDREN**

Children under the age of 8 shall be transported in compliance with California's child restraint system requirements (Vehicle Code § 27360; Vehicle Code § 27363).

Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of seat belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible. A child shall not be transported in a rear-facing child restraint system in the front seat in a vehicle that is equipped with an active frontal passenger airbag (Vehicle Code § 27363).

### **1022.7 VEHICLES MANUFACTURED WITHOUT SEAT BELTS**

Vehicles manufactured and certified for use without seat belts or other restraint systems are subject to the manufacturer's operator requirements for safe use.

### **1022.8 VEHICLE AIRBAGS**

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.

## **Body Armor**

### **1024.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide law enforcement officers and community service officers with guidelines for the proper use of body armor.

### **1024.2 POLICY**

It is the policy of the Clovis Police Department to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

### **1024.3 ISSUANCE OF BODY ARMOR**

The FTO supervisor and CSO supervisor will coordinate with the equipment officer to ensure that body armor is issued to all officers, CSO's, ACO's and ASO's when the officer, CSO, ACO, or ASO begins service at the Clovis Police Department and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The equipment officer shall establish a body armor replacement schedule and ensure that replacement body armor is issued pursuant to the schedule or whenever the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

#### **1024.3.1 USE OF SOFT BODY ARMOR**

Generally, the use of body armor is required subject to the following:

- (a) Officers, CSO's, ACO's and ASO's shall only wear agency-approved body armor.
- (b) Officers, CSO's, ACO's and ASO's shall wear body armor anytime they are in a situation where they could reasonably be expected to take enforcement action.
- (c) Officers, CSO's, ACO's and ASO's may be excused from wearing body armor when they are functioning primarily in an administrative or support capacity and could not reasonably be expected to take enforcement action.
- (d) Body armor shall be worn by on-duty uniformed officers, CSO's, ACO's and ASO's.
- (e) An officer may be excused from wearing body armor when he/she is involved in undercover or plainclothes work that his/her supervisor determines could be compromised by wearing body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.

#### **1024.3.2 INSPECTIONS OF BODY ARMOR**

Supervisors should ensure that body armor is worn and maintained in accordance with this policy through routine observation and periodic documented inspections. Annual inspections of body armor should be conducted by an authorized designee for fit, cleanliness, and signs of damage, abuse and wear.

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#### 1024.3.3 CARE AND MAINTENANCE OF SOFT BODY ARMOR

Soft body armor should be cared for and cleaned pursuant to the manufacturer's care instructions provided with the soft body armor. The instructions can be found on labels located on the external surface of each ballistic panel. The carrier should also have a label that contains care instructions. Failure to follow these instructions may damage the ballistic performance capabilities of the armor. If care instructions for the soft body armor cannot be located, contact the manufacturer to request care instructions.

Soft body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer, as noted on the armor panel label.

Soft body armor should be replaced in accordance with the manufacturer's recommended replacement schedule.

## Personnel Records

### 1026.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

### 1026.2 POLICY

It is the policy of this department to maintain personnel records and preserve the confidentiality of personnel records pursuant to the Constitution and the laws of California (Penal Code § 832.7).

### 1026.3 DEPARTMENT FILE

The department file shall be maintained as a record of a person's employment/appointment with this department. The department file should contain, at a minimum:

- (a) Personal data, including photographs, marital status, names of family members, educational and employment history, or similar information. A photograph of the member should be permanently retained.
- (b) Election of employee benefits.
- (c) Personnel action reports reflecting assignments, promotions, and other changes in employment/appointment status. These should be permanently retained.
- (d) Original performance evaluations. These should be permanently maintained.
- (e) Discipline records, including copies of sustained personnel complaints.
  - 1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained pursuant to the established records retention schedule and at least two years (Government Code § 26202; Government Code § 34090).
  - 2. Disciplinary action resulting from a sustained civilian's complaint shall be maintained pursuant to the established records retention schedule and at least five years (Penal Code § 832.5).
- (f) Adverse comments such as supervisor notes or memos may be retained in the department file after the member has had the opportunity to read and initial the comment (Government Code § 3305).
  - 1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment within 30 days (Government Code § 3306).
  - 2. Any member response shall be attached to and retained with the original adverse comment (Government Code § 3306).
  - 3. If a member refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment and the member should sign or initial the noted refusal. Such a refusal, however, shall



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not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file (Government Code § 3305).

- (g) Commendations and awards.
- (h) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

#### **1026.4 DIVISION FILE**

Division files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The Division file may contain supervisor comments, notes, notices to correct and other materials that are intended to serve as a foundation for the completion of timely performance evaluations.

All materials intended for this interim file shall be provided to the employee prior to being placed in the file in accordance with Government Code § 3305 and Government Code § 3306.

#### **1026.5 TRAINING FILE**

An individual training file shall be maintained by the Training Coordinator for each member. Training files will contain records of all training; original or photocopies of available certificates, transcripts, diplomas and other documentation; and education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

- (a) The involved member is responsible for providing the Training Coordinator or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Training Coordinator or supervisor shall ensure that copies of such training records are placed in the member's training file.

#### **1026.6 INTERNAL AFFAIRS FILE**

Internal affairs files shall be maintained under the exclusive control of the Internal Affairs Unit in conjunction with the office of the Chief of Police. Access to these files may only be approved by the Chief of Police or the Internal Affairs Unit supervisor.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition (Penal Code § 832.12). Investigations of complaints that result in the following findings shall not be placed in the member's file but will be maintained in the internal affairs file:

- (a) Not sustained
- (b) Unfounded
- (c) Exonerated

Investigation files arising out of civilian's complaints shall be maintained pursuant to the established records retention schedule and for a period of at least five years. Investigations that

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resulted in other than a sustained finding may not be used by the Department to adversely affect an employee's career (Penal Code § 832.5).

Investigation files arising out of internally generated complaints shall be maintained pursuant to the established records retention schedule and for at least two years (Government Code § 26202; Government Code § 34090).

#### **1026.7 MEDICAL FILE**

A medical file shall be maintained separately from all other personnel records and shall contain all documents relating to the member's medical condition and history, including but not limited to:

- (a) Materials relating to a medical leave of absence, including leave under the Family and Medical Leave Act (FMLA).
- (b) Documents relating to workers' compensation claims or the receipt of short- or long-term disability benefits.
- (c) Fitness-for-duty examinations, psychological and physical examinations, follow-up inquiries and related documents.
- (d) Medical release forms, doctor's slips and attendance records that reveal a member's medical condition.
- (e) Any other documents or materials that reveal the member's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

#### **1026.8 SECURITY**

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Personnel records are subject to disclosure only as provided in this policy, the Records Maintenance and Release Policy or according to applicable discovery procedures.

Nothing in this policy is intended to preclude review of personnel records by the City Manager, City Attorney or other attorneys or representatives of the City in connection with official business.

##### **1026.8.1 REQUESTS FOR DISCLOSURE**

Any member receiving a request for a personnel record shall promptly notify the Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made (Evidence Code § 1043).

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

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All requests for disclosure that result in access to a member's personnel records shall be logged in the corresponding file.

### **1026.8.2 RELEASE OF PERSONNEL INFORMATION**

Personnel records are confidential and shall not be disclosed except as allowed by law. Nothing in this section is intended to preclude review of personnel files by the City Manager, City Attorney, or other attorneys or representatives of the City in connection with official business (Penal Code § 832.7; Evidence Code § 1043) (See also Records Maintenance and Release Policy).

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any member of this department may be guilty of a misdemeanor (Penal Code § 146e).

The Department may release any factual information concerning a disciplinary investigation if the member who is the subject of the investigation (or the member's representative) publicly makes a statement that is published in the media and that the member (or representative) knows to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement (Penal Code § 832.7).

### **1026.9 MEMBER ACCESS TO HIS/HER OWN PERSONNEL RECORDS**

Any member may request access to his/her own personnel records during the normal business hours of those responsible for maintaining such files. Any member seeking the removal of any item from his/her personnel records shall file a written request to the Chief of Police through the chain of command. The Department shall remove any such item if appropriate, or within 30 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member's request and the written response from the Department shall be retained with the contested item in the member's corresponding personnel record (Government Code § 3306.5).

Members may be restricted from accessing files containing any of the following information:

- (a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.
- (b) Confidential portions of internal affairs files that have not been sustained against the member.
- (c) Criminal investigations involving the member.
- (d) Letters of reference concerning employment/appointment, licensing or issuance of permits regarding the member.
- (e) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.
- (f) Materials used by the Department for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments,

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management bonus plans, promotions and job assignments or other comments or ratings used for department planning purposes.

- (g) Information of a personal nature about a person other than the member if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.
- (h) Records relevant to any other pending claim between the Department and the member that may be discovered in a judicial proceeding.

#### **1026.10 RETENTION AND PURGING**

Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established records retention schedule.

Consistent with California Government Code Section 34090 et. seq., Penal Code Section 832.5, and the City of Clovis Record Retention Policy, citizen complaints; internal affairs files; all associated disciplinary action documents; and any other document which references the same, including evaluations, shall be retained for a minimum of five (5) years from the date of the closure of the complaint or final disciplinary action. All files shall be reviewed in December of each year. All files eligible for purging shall be identified, provided to the City Attorney and Chief of Police for review, and purged prior to January of the subsequent year, unless one of the conditions below exists:

1. Pending or threatened litigation exists and the records could be applicable to the litigation.
2. The officer has received a sustained finding following a citizen complaint or internal affairs investigation that is of similar nature to the documents identified for purging. The determination of whether a file is of a similar nature will be at the sole discretion of the Chief of Police, his/her designee, and the City Attorney.
3. A litigation hold has been received by the City regarding records related to a particular matter or officer.
4. If, in the opinion of the Chief of Police or the City Attorney, the records should be retained beyond the required retention period.

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#### **1026.11 RELEASE OF PERSONNEL RECORDS AND RECORDS RELATED TO CERTAIN INCIDENTS, COMPLAINTS, AND INVESTIGATIONS OF OFFICERS**

Personnel records and records related to certain incidents, complaints, and investigations of officers shall be released pursuant to a proper request under the Public Records Act and subject to redaction and delayed release as provided by law.

The Custodian of Records should work as appropriate with the Chief of Police or the Internal Affairs Unit supervisor in determining what records may qualify for disclosure when a request for records is received and if the requested record is subject to redaction or delay from disclosure.

For purposes of this section, a record includes (Penal Code § 832.7(b)(2)):

- All investigation reports.
- Photographic, audio, and video evidence.
- Transcripts or recordings of interviews.
- Autopsy reports.
- All materials compiled and presented for review to the District Attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, or whether the officer's action was consistent with law and department policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take.
- Documents setting forth findings or recommending findings.
- Copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the *Skelly* or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

Unless a record or information is confidential or qualifies for delayed disclosure as provided by Penal Code § 832.7(b)(7) or other law, the following records shall be made available for public inspection upon request (Penal Code § 832.7):

- (a) Records relating to the report, investigation, or findings of:
  - 1. The discharge of a firearm at another person by an officer.
  - 2. The use of force against a person resulting in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) by an officer.
- (b) Records relating to an incident where a sustained finding (see the Personnel Complaints Policy) was made by the department or oversight agency regarding:
  - 1. An officer engaged in sexual assault of a member of the public (as defined by Penal Code § 832.7(b)).
  - 2. Dishonesty of an officer relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another officer, including but not limited to any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

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A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure (Penal Code § 832.7(b)(3)).

When an investigation involves multiple officers, the Department shall not release information about allegations of misconduct or the analysis or disposition of an investigation of an officer unless it relates to a sustained finding of a qualified allegation as provided by Penal Code § 832.7(b)(4) against the officer. However, factual information about the action of the officer during an incident or the statements of an officer shall be released if the statements are relevant to a sustained finding of the qualified allegation against another officer that is subject to release (Penal Code § 832.7(b)(4)).

#### 1026.11.1 REDACTION

The Custodian of Records, in consultation with the Chief of Police or authorized designee, shall redact the following portions of records made available for release (Penal Code § 832.7(b)(5)):

- (a) Personal data or information (e.g., home address, telephone number, identities of family members) other than the names and work-related information of officers
- (b) Information that would compromise the anonymity of complainants and witnesses
- (c) Confidential medical, financial, or other information where disclosure is prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force
- (d) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the officer or another person

Additionally, a record may be redacted, including redacting personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosing it (Penal Code § 832.7(b)(6)).

#### 1026.11.2 DELAY OF RELEASE

Unless otherwise directed by the Chief of Police, the Custodian of Records should consult with a supervisor familiar with the underlying investigation to determine whether to delay disclosure of records relating to the discharge of a firearm or use of force resulting in death or in great bodily injury due to any of the following conditions (Penal Code § 832.7):

- (a) Active criminal investigations
  1. Disclosure may be delayed 60 days from the date the use of force occurred or until the District Attorney determines whether to file criminal charges, whichever occurs sooner.
  2. After the initial 60 days, delay of disclosure may be continued if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer or against someone other than an officer who used the force.

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- (b) Filed criminal charges
  - 1. When charges are filed related to an incident where force was used, disclosure may be delayed until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea has passed.
- (c) Administrative investigations
  - 1. Disclosure may be delayed until whichever occurs later:
    - (a) There is a determination from the investigation whether the use of force violated law or department policy, but no longer than 180 days after the date of the department's discovery of the use of force or allegation of use of force
    - (b) Thirty days after the close of any criminal investigation related to the officer's use of force

#### 1026.11.3 NOTICE OF DELAY OF RECORDS

When there is justification for delay of disclosure of records relating to the discharge of a firearm or use of force resulting in death or in great bodily injury during an active criminal investigation, the Custodian of Records shall provide written notice of the reason for any delay to a requester as follows (Penal Code § 832.7):

- (a) Provide the specific basis for the determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. The notice shall also include the estimated date for the disclosure of the withheld information.
- (b) When delay is continued beyond the initial 60 days because of criminal enforcement proceedings against anyone, at 180-day intervals provide the specific basis that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding and the estimated date for disclosure.
  - 1. Information withheld shall be disclosed when the specific basis for withholding the information is resolved, the investigation or proceeding is no longer active, or no later than 18 months after the date of the incident, whichever occurs sooner, unless:
    - (a) When the criminal proceeding is against someone other than an officer and there are extraordinary circumstances to warrant a continued delay due to the ongoing criminal investigation or proceeding, then the Department must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest for prompt disclosure of records about use of serious force by officers.

In cases where an action to compel disclosure is brought pursuant to Government Code § 6258, the Department may justify delay by filing an application to seal the basis for withholding if disclosure of the written basis itself would impact a privilege or compromise a pending investigation (Penal Code § 832.7(b)(7)).

## **Request for Change of Assignment**

### **1028.1 PURPOSE AND SCOPE**

It is the intent of the Department that all requests for change of assignment are considered equally. To facilitate the selection process, the following procedure is established whereby all such requests will be reviewed on an equal basis as assignments are made.

### **1028.2 REQUEST FOR CHANGE OF ASSIGNMENT**

Personnel wishing a change of assignment are to complete a Request for Change of Assignment form. The form should then be forwarded through the chain of command to their Division Commander.

#### **1028.2.1 PURPOSE OF FORM**

The form is designed to aid employees in listing their qualifications for specific assignments. All relevant experience, education and training should be included when completing this form.



## Employee Commendations

### 1030.1 PURPOSE AND SCOPE

Special recognition may be in order whenever an employee performs his/her duties in an exemplary manner. This procedure provides general guidelines for the commending of exceptional employee performance.

### 1030.2 WHO MAY MAKE COMMENDATIONS

A written commendation may be made by any supervisor regarding any other employee of the Department, provided the reporting person is superior in rank or is the person-in-charge of the individual being commended. Additionally, investigating officers may commend uniformed officers for exceptional assistance in investigative functions, with approval from the investigator's supervisor. Any employee may recommend a commendation to the supervisor of the employee subject to commendation.

### 1030.3 COMMENDABLE ACTIONS

A meritorious or commendable act by an employee of this department may include, but is not limited to, the following:

- Superior handling of a difficult situation by an employee
- Conspicuous bravery or outstanding performance by any employee of the Department
- Any action or performance that is above and beyond the typical duties of an employee

#### 1030.3.1 COMMENDATION INCIDENT REPORT

The Commendation Incident Report shall be used to document the commendation of the employee and shall contain the following:

- (a) Employee name, bureau, and assignment at the date and time of the commendation
- (b) A brief account of the commendable action shall be documented on the form with report numbers, as appropriate
- (c) Signature of the commending supervisor

Completed reports shall be forwarded to the appropriate Division Commander for his/her review. The Division Commander shall sign and forward the report to the Chief of Police for his/her review.

The Chief of Police will return the commendation to the employee for his/her signature. The report will then be returned to the Administrative Secretary for entry into the employee's personnel file.

#### 1030.3.2 TYPES OF COMMENDATIONS

- (a) Oral Commendations - An oral commendation is the verbal acknowledgment, by a supervisor, of noteworthy performance. These are to be given for a performance equal

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### Employee Commendations

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in magnitude on the positive side to that degree of negative performance that would cause a reprimand. Oral commendations are not documented.

- (b) **Written Commendations** - A written commendation may be given for an act or performance level that is deserving of special recognition beyond an oral commendation, but does not meet the criteria established for a major commendation. Written commendations shall be given to the receiving member, with a copy entered in the member's personnel file.
- (c) **Achievement Award** - Achievement awards are commendations given in recognition of achieving an established level of proficiency, or for attaining an established level of performance. Achievement awards shall be documented and entered in the member's personnel file. One such award would be a marksmanship award.
- (d) **Major Commendation and Award** - A major commendation and award may be given for the outstanding performance of duty, or for an action involving commendable bravery. Such commendations shall include that conferring of a Department medal and citation, along with the documentation placed in the member's personnel file. Categories are as follows:
  - 1. **Medal of Valor** - The Medal of Valor is the highest commendation awarded by the Clovis Police Department. It may be awarded to members who display extreme courage while consciously facing mortal danger during a police action in an effort to provide protection, or in the preservation of life. Police action is defined as an act performed by a member which involves the enforcement of any law, or the apprehension of any law violator.
  - 2. **Medal of Distinction** - The Medal of Distinction is awarded to members in recognition of exceptional performance during a police action in providing protection or preserving life.
  - 3. **Medal of Merit for Meritorious Service** - The Medal of Merit for Meritorious Service is awarded to members for exceptional performance in other than a police action. The awarding of this medal is based on a performance clearly above that which is normally expected and which has contributed materially to the success of a major project or operation, or which has been of great benefit to the City of Clovis, the Clovis Police Department, and/or the law enforcement profession. Length of service is not a criteria for this award.
  - 4. **Lifesaving Medal** - The Lifesaving Medal is awarded to members whose immediate actions result in the saving of human life. The action must be confirmed by a physician as the primary life-sustaining action given, without which a loss of life would have resulted.

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### *Employee Commendations*

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#### 1030.3.3 AWARDS AND PRESENTATIONS

Upon recognition of performance characterized in one of the previous categories, the member's supervisor shall prepare the appropriate commendation and shall then forward it through the chain of command to the office of the Chief of Police. Each reviewing member shall initial the document. Should the reviewing member defer, he/she shall attach their comments prior to forwarding it.

Awards shall be presented by the Chief of Police or his designee, as appropriate. It may be deemed appropriate by the Chief of Police to present the award(s) during special instances, i.e. City Council sessions, Department meetings, press conferences, etc.

## **Fitness for Duty**

### **1032.1 PURPOSE AND SCOPE**

All officers are required to be free from any physical, emotional, or mental condition which might adversely affect the exercise of peace officer powers. The purpose of this policy is to ensure that all officers of this department remain fit for duty and able to perform their job functions (Government Code § 1031).

### **1032.2 EMPLOYEE RESPONSIBILITIES**

- (a) It shall be the responsibility of each member of this department to maintain good physical condition sufficient to safely and properly perform essential duties of their position.
- (b) Each member of this department shall perform his/her respective duties without physical, emotional, and/or mental constraints.
- (c) During working hours, all employees are required to be alert, attentive, and capable of performing his/her assigned responsibilities.
- (d) Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

### **1032.3 SUPERVISOR RESPONSIBILITIES**

- (a) A supervisor observing an employee, or receiving a report of an employee who is perceived to be, unable to safely perform his/her duties due to a physical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.
- (b) Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made in an effort to determine the level of inability of the employee to perform his/her duties.
- (c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.
- (d) In conjunction with the Watch Commander or employee's available Division Commander, a determination should be made whether or not the employee should be temporarily relieved from his/her duties.
- (e) The Chief of Police shall be promptly notified in the event that any employee is relieved from duty.

*Fitness for Duty*

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**1032.4 NON-WORK RELATED CONDITIONS**

Any employee suffering from a non-work related condition which warrants a temporary relief from duty may be required to use sick leave or other paid time off (PTO) in order to obtain medical treatment or other reasonable rest period.

**1032.5 WORK RELATED CONDITIONS**

Any employee suffering from a work related condition which warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

Upon the recommendation of the Watch Commander or unit supervisor and concurrence of a Division Commander, any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/or placed on paid administrative leave for the wellbeing of the employee and until such time as the following may be completed:

- (a) A preliminary determination that the employee's conduct appears to be in compliance with policy and, if appropriate.
- (b) The employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

**1032.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS**

- (a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief of Police may serve that employee with a written order to undergo a physical and/or psychological examination in cooperation with Personnel Risk Management to determine the level of the employee's fitness for duty. The order shall indicate the date, time and place for the examination.
- (b) The examining physician or therapist will provide the Department with a report indicating that the employee is either fit for duty or, if not, listing any functional limitations which limit the employee's ability to perform job duties. If the employee places his/her condition at issue in any subsequent or related administrative action/grievance, the examining physician or therapist may be required to disclose any and all information which is relevant to such proceeding (Civil Code § 56.10(c)(8)).
- (c) In order to facilitate the examination of any employee, the Department will provide all appropriate documents and available information to assist in the evaluation and/or treatment.
- (d) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee's confidential personnel file.
- (e) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed.

***Fitness for Duty***

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Any failure to comply with such an order and any failure to cooperate with the examining physician or therapist may be deemed insubordination and shall be subject to discipline up to and including termination.

- (f) Once an employee has been deemed fit for duty by the examining physician or therapist, the employee will be notified to resume his/her duties.

**1032.7 LIMITATION ON HOURS WORKED**

Absent emergency operations members should not work more than 16 hours in one day (24 hour period).

Except in very limited circumstances members should have a minimum of 6 hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, general overtime and any other work assignments.

## **Meal Periods and Breaks**

### **1034.1 PURPOSE AND SCOPE**

This policy regarding meals and breaks, insofar as possible shall conform to the policy governing all City employees that has been established by the City Manager.

#### **1034.1.1 MEAL PERIODS**

Sworn employees and dispatchers shall remain on duty, subject to call during meal breaks. All other employees are not on call during meal breaks unless directed otherwise by a supervisor.

Uniformed patrol, traffic officers, and other patrol personnel shall request clearance from Communications prior to taking a break or meal period. Uniformed personnel shall take their breaks within the City limits unless on assignment outside of the City. Patrol personnel shall advise Communications of their location after arriving at their break location.

Field officers will take their breaks in their assigned areas, subject to call and shall monitor their radios. When field officers take their breaks, they shall do so only with the knowledge and clearance of Communications.

The time spent for the meal period shall not exceed the authorized time allowed. The length of rest breaks and meal periods are defined in the Employee MOU.

## **Lactation Break Policy**

### **1035.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide reasonable accommodations to employees desiring to express breast milk for the employee's infant child (29 USC § 207 and Labor Code §§ 1030-1032).

### **1035.2 POLICY**

It is the policy of this department to provide, in compliance with the Fair Labor Standards Act, reasonable break time and appropriate facilities to accommodate any employee desiring to express breast milk for her nursing infant child (29 USC § 207 and Labor Code § 1030).

### **1035.3 LACTATION BREAK TIME**

A rest period should be permitted each time the employee has the need to express breast milk (29 USC § 207). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time. Such breaks, if feasible, should be taken at the same time as the employee's regularly scheduled rest or meal periods.

While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid (Labor Code § 1030).

Employees desiring to take a lactation break shall notify Communications or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations (Labor Code § 1032).

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

### **1035.4 PRIVATE LOCATION**

The Department will make reasonable efforts to accommodate employees with the use of an appropriate room or other location to express milk in private. Such room or place should be in close proximity to the employee's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 207 and Labor Code § 1031).

Employees occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other employees should avoid interrupting an employee during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.



*Lactation Break Policy*

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**1035.5 STORAGE OF EXPRESSED MILK**

Any employee storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the employee ends her shift.

## Overtime Payment Requests

### **1038.1 PURPOSE AND SCOPE**

It is the policy of the Department to compensate non-exempt salaried employees who work authorized overtime either by payment of wages as agreed and in effect through the Memorandum of Understanding (MOU), or by the allowance of accrual of compensatory time off. In order to qualify for either, the employee must complete and submit a Request for Overtime Payment as soon as practical after overtime is worked.

#### **1038.1.1 DEPARTMENT POLICY**

Because of the nature of police work, and the specific needs of the Department, a degree of flexibility concerning overtime policies must be maintained.

Non-exempt employees are not authorized to volunteer work time to the Department. All requests to work overtime, other than shift cleanup, shall be approved in advance by a supervisor. If circumstances do not permit prior approval, then approval shall be sought as soon as practical during the overtime shift and in no case later than the end of shift in which the overtime is worked.

### **1038.2 REQUEST FOR OVERTIME PAYMENT**

Employees shall submit all overtime payment requests through PLANIT for verification by their immediate supervisor. Failure to submit a request for overtime payment in a timely manner may result in a denial of compensation.

#### **1038.2.1 EMPLOYEES RESPONSIBILITY**

Employees shall complete and submit the requests **as soon as possible** after working the overtime.

#### **1038.2.2 SUPERVISORS RESPONSIBILITY**

The supervisor who verifies the overtime earned shall verify that the overtime was worked before approving the request.

The overtime payment request is then automatically forwarded to the employee's Lieutenant for final approval.

#### **1038.2.3 LIEUTENANTS RESPONSIBILITY**

Lieutenants should review submitted overtime requests on a daily basis to ensure they are approved or denied in a timely manner.

### **1038.3 ACCOUNTING FOR OVERTIME WORKED**

Employees are to record the actual time worked in an overtime status. In some cases, the Memorandum of Understanding provides that a minimum number of hours will be paid, (e.g., four hours for Court, four hours for outside overtime).

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**Overtime Payment Requests**

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**1038.3.1 ACCOUNTING FOR PORTIONS OF AN HOUR**

When accounting for less than a full hour, time worked shall be rounded up to the nearest quarter of an hour as indicated by the following chart:

<u>TIME WORKED</u>	<u>INDICATE ON CARD</u>
1 to 15 minutes	1/4 hour
16 to 30 minutes	1/2 hour
31 to 45 minutes	3/4 hour
46 to 60 minutes	1 hour

## Outside Employment

### 1040.1 PURPOSE AND SCOPE

In order to avoid actual or perceived conflicts of interest for departmental employees engaging in outside employment, all employees shall obtain written approval from the Chief of Police prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief of Police in accordance with the provisions of this policy.

#### 1040.1.1 DEFINITIONS

**Outside Employment** - Any member of this department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this department for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this department for services, product(s) or benefits rendered.

**Outside Overtime** - Any member of this department who performs duties or services on behalf of an outside organization, company, or individual within this jurisdiction. Such outside overtime shall be requested and scheduled directly through this department so that the Department may be reimbursed for the cost of wages and benefits.

### 1040.2 OBTAINING APPROVAL

No member of this department may engage in any outside employment without first obtaining prior written approval of the Chief of Police. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

In order to obtain approval for outside employment, the employee must complete an Outside Employment Application which shall be submitted to the employee's immediate supervisor. The application will then be forwarded through channels to the Chief of Police for consideration.

If approved, the employee will be provided with a copy of the approval unless otherwise indicated in writing. Once approved a copy will be forwarded to the City Manager.

Any employee seeking approval of outside employment, whose request has been denied, shall be provided with a written reason for the denial of the application at the time of the denial (Penal Code § 70(e)(3)).

#### 1040.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's Outside Employment Application is denied or withdrawn by the Department, the employee may file a written notice of appeal to the Chief of Police within ten days of the date of denial.

If the employee's appeal is denied, the employee may file a grievance pursuant to the procedure set forth in the current Memorandum of Understanding (MOU).

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## Outside Employment

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### 1040.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any outside employment permit may be revoked or suspended under the following circumstances:

- (a) Should an employee's performance at this department decline to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of competency, the Chief of Police may, at his or her discretion, revoke any previously approved outside employment permit(s). That revocation will stand until the employee's performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the outside employment permit
- (b) Suspension or revocation of a previously approved outside employment permit may be included as a term or condition of sustained discipline
- (c) If, at any time during the term of valid outside employment, an employee's conduct or outside employment conflicts with the provisions of department policy, the permit may be suspended or revoked
- (d) When an employee is unable to perform at a full duty capacity due to an injury or other condition, any previously approved outside employment permit may be rescinded until the employee has returned to a full duty status

### 1040.3 PROHIBITED OUTSIDE EMPLOYMENT

Consistent with the provisions of Government Code § 1126, the Department expressly reserves the right to deny any Outside Employment Application submitted by an employee seeking to engage in any activity which:

- (a) Involves the employee's use of departmental time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage
- (b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this department for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this department
- (c) Involves the performance of an act in other than the employee's capacity as a member of this department that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this department
- (d) Involves time demands that would render performance of the employee's duties for this department less efficient

### 1040.3.1 OUTSIDE SECURITY AND PEACE OFFICER EMPLOYMENT

Consistent with the provisions of Penal Code § 70, and because it would further create a potential conflict of interest, no member of this department may engage in any outside employment as a private security guard, private investigator or other similar private security position.

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## *Outside Employment*

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Any private organization, entity or individual seeking outside security services from members of this department must submit a written application to the Chief of Police in advance of the desired service.

- (a) The applicant will be required to enter into an indemnification agreement prior to approval.
- (b) The applicant will further be required to provide for the compensation and full benefits of all employees requested for such outside security services.
- (c) Should such a request be approved, participating employees shall be subject to the following conditions:
  - 1. The officer(s) shall wear the departmental uniform/identification.
  - 2. The officer(s) shall be subject to the rules and regulations of this department.
  - 3. No officer may engage in such outside employment during or at the site of a strike, lockout, picket, or other physical demonstration of a labor dispute.
  - 4. Compensation for such approved outside security services shall be pursuant to normal overtime procedures.
  - 5. Outside security services shall not be subject to the collective bargaining process.

### **1040.3.2 OUTSIDE OVERTIME ARREST AND REPORTING PROCEDURE**

Any employee making an arrest or taking other official police action while working in an approved outside overtime assignment shall be required to complete all related reports in a timely manner pursuant to department policy. Time spent on the completion of such reports shall be considered incidental to the outside overtime assignment.

### **1040.4 DEPARTMENT RESOURCES**

Employees are prohibited from using any department equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or databases of this department or other agencies through the use of the employee's position with this department.

#### **1040.4.1 REVIEW OF FINANCIAL RECORDS**

Employees approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest (Government Code § 3308; Government Code § 1126). Prior to providing written approval for an outside employment position, the Department may request that an employee provide his/her personal financial records for review/audit in order to determine whether a conflict of interest exists. Failure of the employee to provide the requested personal financial records could result in denial of the off-duty work permit. If, after approving a request for an outside employment position, the Department becomes concerned that a conflict of interest exists based on a financial reason, the Department may

### Outside Employment

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request that the employee provide his/her personal financial records for review/audit. If the employee elects not to provide the requested records, his/her off-duty work permit may be revoked pursuant to the Revocation/Suspension of Outside Employment Permits section of this policy.

#### **1040.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS**

If an employee terminates his or her outside employment during the period of a valid permit, the employee shall promptly submit written notification of such termination to the Chief of Police through channels. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief of Police any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material are advised to report the change.

#### **1040.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY**

Department members engaged in outside employment who are placed on disability leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether or not they intend to continue to engage in such outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along with any related doctor's orders, and make a recommendation to the Chief of Police whether such outside employment should continue.

In the event the Chief of Police determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding their work permit, a notice of revocation of the member's permit will be forwarded to the involved employee, and a copy attached to the original work permit.

Criteria for revoking the outside employment permit include, but are not limited to, the following:

- (a) The outside employment is medically detrimental to the total recovery of the disabled member, as indicated by the City's professional medical advisors.
- (b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty member.
- (c) The employee's failure to make timely notice of their intentions to their supervisor.

When the disabled member returns to full duty with the Clovis Police Department, a request (in writing) may be made to the Chief of Police to restore the permit.

# Occupational Disease and Work-Related Injury Reporting

## 1042.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding the timely reporting of occupational diseases, psychiatric injuries, and work-related injuries.

### 1042.1.1 DEFINITIONS

Definitions related to this policy include:

**Occupational disease or work-related injury** - An injury, disease or psychiatric injury arising out of employment (Labor Code § 3208; Labor Code § 3208.3; Labor Code § 3212 et seq.).

## 1042.2 POLICY

The Clovis Police Department will address occupational diseases and work-related injuries appropriately, and will comply with applicable state workers' compensation requirements (Labor Code § 3200 et seq.).

## 1042.3 RESPONSIBILITIES

### 1042.3.1 MEMBER RESPONSIBILITIES

Any member sustaining any occupational disease or work-related injury shall report such event as soon as practicable, but within 24 hours, to a supervisor, and shall seek medical care when appropriate (8 CCR 14300.35).

### 1042.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor learning of any occupational disease or work-related injury should ensure the member receives medical care as appropriate.

Supervisors shall ensure that required documents regarding workers' compensation are completed and forwarded promptly. Any related Citywide disease- or injury-reporting protocol shall also be followed.

Supervisors shall determine whether the Major Incident Notification and Illness and Injury Prevention policies apply and take additional action as required.

### 1042.3.3 DIVISION COMMANDER RESPONSIBILITIES

The Division Commander who receives a report of an occupational disease or work-related injury should review the report for accuracy and determine what additional action should be taken. The report shall then be forwarded to the Chief of Police, the City's risk management entity, and the Administration Division Commander to ensure any required Division of Occupational Health and Safety Administration (Cal/OSHA) reporting is made as required in the illness and injury prevention plan identified in the Illness and Injury Prevention Policy.



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### Occupational Disease and Work-Related Injury Reporting

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#### **1042.3.4 CHIEF OF POLICE RESPONSIBILITIES**

The Chief of Police shall review and forward copies of the report to the Personnel Risk Management. Copies of the report and related documents retained by the Department shall be filed in the member's confidential medical file.

#### **1042.4 OTHER DISEASE OR INJURY**

Diseases and injuries caused or occurring on-duty that do not qualify for workers' compensation reporting shall be documented on the designated report of injury form, which shall be signed by a supervisor. A copy of the completed form shall be forwarded to the appropriate Division Commander through the chain of command and a copy sent to the Administration Division Commander.

Unless the injury is extremely minor, this report shall be signed by the affected member, indicating that he/she desired no medical attention at the time of the report. By signing, the member does not preclude his/her ability to later seek medical attention.

#### **1042.5 SETTLEMENT OFFERS**

When a member sustains an occupational disease or work-related injury that is caused by another person and is subsequently contacted by that person, his/her agent, insurance company or attorney and offered a settlement, the member shall take no action other than to submit a written report of this contact to his/her supervisor as soon as possible.

##### **1042.5.1 NO SETTLEMENT WITHOUT PRIOR APPROVAL**

No less than 10 days prior to accepting and finalizing the settlement of any third-party claim arising out of or related to an occupational disease or work-related injury, the member shall provide the Chief of Police with written notice of the proposed terms of such settlement. In no case shall the member accept a settlement without first providing written notice to the Chief of Police. The purpose of such notice is to permit the City to determine whether the offered settlement will affect any claim the City may have regarding payment for damage to equipment or reimbursement for wages against the person who caused the disease or injury, and to protect the City's right of subrogation, while ensuring that the member's right to receive compensation is not affected.

## Personal Appearance Standards

### 1044.1 PURPOSE AND SCOPE

In order to project uniformity and neutrality toward the public and other members of the department, employees shall maintain their personal hygiene and appearance to project a professional image appropriate for this department and for their assignment.

### 1044.2 GROOMING STANDARDS

Unless otherwise stated and because deviations from these standards could present officer safety issues, the following appearance standards shall apply to all employees, except those whose current assignment would deem them not appropriate, and where the Chief of Police has granted exception.

#### 1044.2.1 HAIR

Hairstyles of all members shall be neat in appearance. For male sworn members, hair must not extend below the top edge of the uniform collar while assuming a normal stance.

For female sworn members, hair must be no longer than the horizontal level of the bottom of the uniform patch when the employee is standing erect, worn up or in a tightly wrapped braid or ponytail.

#### 1044.2.2 MUSTACHES

Mustaches shall be maintained neatly in a style that conforms to the standards of our community. A mustache, when viewed by a citizen, shall leave a professional image of the officer and our Department. Mustaches that are extreme in style or draw undue attention to the officer in question will not be tolerated.

#### 1044.2.3 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

#### 1044.2.4 FACIAL HAIR

Facial hair other than sideburns, mustaches and eyebrows shall not be worn, unless authorized by the Chief of Police or his or her designee.

#### 1044.2.5 FINGERNAILS

Fingernails extending beyond the tip of the finger can pose a safety hazard to officers or others. For this reason, fingernails shall be trimmed so that no point of the nail extends beyond the tip of the finger.

#### 1044.2.6 JEWELRY AND ACCESSORIES

No jewelry or personal ornaments shall be worn by employees on any part of the uniform or equipment, except those authorized within this manual. Jewelry, if worn around the neck, shall

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not be visible above the shirt collar. Only one ring may be worn on each hand of the employee while on-duty.

#### **1044.3 TATTOOS**

Tattoos, Ultra-Violet (UV) Tattoos, Brandings Ornamental Dental Art and Body Art: Department personnel shall not, while on duty, display any tattoos, UV tattoos (tattoos visible under UV lighting), brandings, ornamental dental art or other body art. Visible tattoos, brandings and other body art shall be covered when wearing a uniform. Tattoos on the head, hands, neck and face are expressly prohibited.

Employees hired prior to July 1, 2008, with tattoos, branding and/or body art visible while in uniform will be allowed to wear an unmodified uniform. Employees will not be allowed to add any other visible tattoos, branding or body art after adoption of this agreement. Exception: Sworn officers working in an undercover assignment may be exempted from this policy by the Chief of Police.

#### **1044.4 BODY PIERCING OR ALTERATION**

No body piercing, with the exception of earrings worn by female employees, with ornamentation shall be visible, included are the face, nose, and tongue, while any member is on duty or representing the Department in any official capacity.

## **Uniform Regulations**

### **1046.1 PURPOSE AND SCOPE**

The uniform policy of the Clovis Police Department is established to ensure that uniformed officers will be readily identifiable to the public through the proper use and wearing of department uniforms. It is the policy of the Department that all personnel be properly attired and equipped. We also must present an image that is professional in all respects and that does not detract from our mission or that is offensive to any segment of our community.

It is impossible to have guidelines that cover all situations. It is the responsibility of each supervisor to interpret and carry out the intent of these guidelines in a manner that reflects Department policy and is in the best interest of the Department. Regulations outlined in this manual apply to all personnel of this Department. Employees should also refer to the following associated policy manual sections:

Section 312 - Firearms and Qualification

Section 700 - Department Owned and Personal Property

Section 1024 - Body Armor

Section 1044 - Personal Appearance Standards

### **1046.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT**

Police employees wear the uniform to be identified as the law enforcement authority in society. The uniform also serves an equally important purpose to identify the wearer as a source of assistance in an emergency, crisis or other time of need.

- (a) Uniform and equipment shall be maintained in a serviceable condition and shall be ready at all times for immediate use. Uniforms shall be neat, clean, and appear professionally pressed.
- (b) All peace officers of this department shall possess and maintain at all times, a serviceable uniform and the necessary equipment to perform uniformed field duty.
- (c) Personnel shall wear only the uniform specified for their rank and assignment.
- (d) The uniform is to be worn in compliance with the specifications set forth in §1046.9.
- (e) All supervisors will perform periodic inspections of their personnel to ensure conformance to these regulations.
- (f) Civilian attire shall not be worn in combination with any distinguishable part of the uniform, except as is noted below.
- (g) Uniforms are only to be worn while on duty, while in transit to or from work, for court, or at other official department functions or events.

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- (h) If the uniform is worn while in transit, an outer garment shall be worn over the uniform shirt so as not to bring attention to the employee while he/she is off-duty.
- (i) Employees are not to purchase or drink alcoholic beverages while wearing any part of the department uniform, including the uniform pants.
- (j) Sunglasses that are extreme in style or draw undue attention to the officer will not be worn with any Department uniform.
- (k) Visible jewelry, other than those items listed below, shall not be worn with the uniform unless specifically authorized by the Chief of Police or the authorized designee.
  - 1. Wrist watch
  - 2. Wedding ring(s), class ring, or other ring of tasteful design. A maximum of one ring/set may be worn on each hand
  - 3. Medical alert bracelet

#### **1046.2.1 DEPARTMENT ISSUED IDENTIFICATION**

The Department issues each employee an official department Identification card bearing the employee's name, identifying information and photo likeness. All employees shall be in possession of their department issued identification card at all times while on duty or when carrying a concealed weapon.

- (a) Whenever on duty or acting in an official capacity representing the department, employees shall display their department issued Identification in a courteous manner to any person upon request and as soon as practical.
- (b) Officers working specialized assignments may be excused from the possession and display requirements when directed by their Division Commander.

#### **1046.3 UNIFORM CLASSES**

##### **1046.3.1 CLASS A UNIFORM**

The Class A uniform is to be worn on special occasions such as funerals, graduations, ceremonies, or as directed. The Class A uniform is required for all sworn personnel. The Class A uniform includes the standard issue uniform with:

- (a) Long sleeve shirt
- (b) Tie with tie bar (gold)
- (c) Black shoes or boots, in good condition, polished to a high luster
- (d) Boots with pointed toes are not permitted
- (e) Hat, Bayly Cap Company, midnight blue, poly class "A", model 11NM2A2, black band, gold buttons. Hat badge will be supplied by the Department
- (f) White cloth ceremonial gloves are optional but recommended

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#### 1046.3.2 CLASS B UNIFORM

All officers will possess and maintain a serviceable Class B uniform at all times.

The Class B uniform will consist of the same garments and equipment as the Class A uniform with the following exceptions:

- (a) The long or short sleeve shirt may be worn with the collar open. No tie is required. Long sleeve shirts must be worn with the sleeves down and buttoned and may not be rolled up
- (b) A white or black crew neck T-shirt or V-neck must be worn with the uniform
- (c) All shirt buttons must remain buttoned except for the last button at the neck
- (d) Shoes for the Class B uniform may be as described in the Class A uniform
- (e) Approved all black polished shoes or duty boots may be worn
- (f) Boots with pointed toes are not permitted
- (g) Composite basket weave duty gear or nylon gear as approved

#### 1046.3.3 CLASS C UNIFORM (UTILITY)

The Class B uniform is the prescribed daily manner of dress for uniformed officers. Purchase of a Class C uniform is optional. The Class C uniform shall be worn only at the direction of the Chief, Division Commander, Watch Commander, or Unit Leader based upon the following criteria:

- (a) Severe inclement weather conditions, man-made or natural disasters, or under conditions in which the wearing of the Class B uniform would almost certainly cause damage or excessive wear to the Class B uniforms or accessories.
- (b) Police enforcement operations, such as search warrants or other details where the expected conditions of the location would be best suited to a durable utility uniform.
- (c) Directed patrol operations or special assignments, such as EOD where in the opinion of the supervisor, the Class C uniform is preferred over other types of raid gear (i.e. mesh vests) due to the standard police markings of the uniform.
- (d) Mutual aid requests or out of town enforcement operations. Mutual aid events may require that the Class C uniform be worn.
- (e) Other events, at the discretion of the Chief, Division Commander, Watch Commander, or Unit Leader where a utility uniform is preferred.
- (f) Sleeves of the Class C uniform may be worn long or rolled above elbow as conditions permit. Pants will not be bloused in boots.

#### 1046.3.4 SPECIALIZED UNIT UNIFORMS

The Chief of Police may authorize special uniforms to be worn by officers in the following specialized units: K-9, SWAT, Crisis Negotiation Team, Bearcat Operators, Mobile Command Vehicle Operators, Tactical Dispatchers, Bicycle Patrol, Motor Officers and other specialized

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assignments. Those designated uniforms will become the standard for that unit and will not change unless agreed upon by the unit commander and designated as such by the Chief of Police. Department trainers will wear a uniform designated by each training unit, but it will consist minimally of a red polo style or T-shirt identifying the wearer as a department trainer.

Motor officers may wear the following uniform during the summer months:

- (a) 5.11 brand TDU pants #74003, navy, not bloused in boots
- (b) United Uniform polo style shirt, style # 571, navy with official embroidered badge and name, official patches sewed to both sleeves
- (c) 5.11 brand TacLite PDU A Class Shirt style # 72365 L/s or S/S.
- (d) Duty boots

#### 1046.3.5 FOUL WEATHER GEAR

The Uniform and Equipment Specifications lists the authorized uniform jacket and rain gear.

#### 1046.3.6 CEREMONIAL UNIFORM

Only designated members of the Clovis Police Department Honor Guard wear the ceremonial class uniform. It is maintained in pristine condition by members of this team and is utilized at ceremonial events designated as such by the Chief of Police or his designee.

- (a) Hat (Albourn brand campaign hat, navy blue 3X felt with gold hat shield and black leather bead strap)
- (b) Dress jacket (Fechheimer command jacket)
- (c) Shirt (Flying Cross brand, long sleeve, white duro-poplin 65% dacron polyester/35% cotton)
- (d) Tie (Broome brand, navy blue, clip-on)
- (e) Pants (Fechheimer brand #32221, navy)
- (f) Shoes (black oxford type with permanent high gloss shine)
- (g) Socks (black)
- (h) Gloves (white cloth ceremonial)
- (i) Duty gear (composite black nylon, duty pistol and holster only)

#### 1046.3.7 COURT APPAREL

Employees appearing before any court or public hearing shall be dressed in a business suit or appropriate sport coat and slacks, including shirt and tie, or in the uniform of the day regardless of weather conditions. Civilian court apparel for female officers shall comply with normal business attire.

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#### **1046.4 INSIGNIA AND PATCHES**

- (a) **Shoulder Patches** - The authorized shoulder patch supplied by the Department shall be machine stitched to the sleeves of all uniform shirts and jackets, three-quarters of an inch below the shoulder seam of the shirt and be bisected by the crease in the sleeve.
- (b) **Service stripes** (indicators for length of service) may be worn on long sleeved shirts and jackets. They are to be machine stitched onto the uniform. The bottom of the service stripe shall be sewn the width of one and one-half inches above the cuff seam with the rear of the service stripes sewn on the dress of the sleeve. The stripes are to be worn on the left sleeve only.
- (c) The regulation nameplate, or an authorized sewn on cloth nameplate, shall be worn at all times while in uniform. The nameplate shall display the employee's first and last name or the initial of the first name and the last name. If the employee desires other than the legal first name, the employee must receive approval from the Chief of Police. The nameplate shall be worn and placed above the right pocket with the bottom of the nameplate resting on the top edge of the pocket flap, bisected by the pressed shirt seam, with equal distance from both sides of the nameplate to the outer edge of the pocket.
- (d) When a jacket or approved outerwear is worn, the nameplate shall be worn, or an authorized sewn on cloth nameplate shall be machine stitched to the jacket, above the right pocket centered with equal distance from both sides of the nameplate or cloth nameplate to the outer edge of the pocket.
- (e) **Assignment Insignias** - Assignment insignias, (SWAT, FTO, etc.) may be worn as designated by the Chief of Police.
- (f) **Badge** - The department issued badge must be worn and visible at all times while in uniform.
- (g) **Rank Insignia** - The designated insignia indicating the employee's rank must be worn at all times while in uniform. The Chief of Police may authorize exceptions.

##### **1046.4.1 MOURNING BADGE**

Uniformed employees shall wear a black mourning band across the uniform badge whenever a law enforcement officer is killed in the line of duty. The following mourning periods may be observed:

- (a) **An officer of this department** - From the time of death until midnight on the **day of the funeral**.
- (b) **An officer from this or an adjacent county** - From the time of death until midnight on the day of the funeral.
- (c) **Funeral attendee** - While attending the funeral of an out of region fallen officer.



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- (d) National Peace Officers Memorial Day (May 15th) - From 0001 hours until 2359 hours.
- (e) As directed by the Chief of Police.

#### **1046.5 CIVILIAN CLOTHING/SWORN PERSONNEL**

There are assignments within the Department that do not require the wearing of a uniform because recognition and authority are not essential to their function. There are also assignments in which the wearing of civilian attire is necessary.

- (a) Employees of this Department who wear civilian clothing required by their assignment shall wear appropriate civilian attire as determined by the Department.
- (b) No item of civilian attire may be worn on duty that would adversely affect the reputation of the Clovis Police Department or the morale of the employees.

##### **1046.5.1 CIVILIAN CLOTHING/PROFESSIONAL STAFF**

Clothing shall conform to normal business office standards unless otherwise directed.

#### **1046.6 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS**

Unless specifically authorized by the Chief of Police, Clovis Police Department employees may not wear any part of the uniform, be photographed wearing any part of the uniform, utilize a department badge, patch or other official insignia, or cause to be posted, published, or displayed, the image of another employee, or identify himself/herself as an employee of the Clovis Police Department to do any of the following (Government Code §§ 3206 and 3302):

- (a) Endorse, support, oppose, or contradict any political campaign or initiative.
- (b) Endorse, support, oppose, or contradict any social issue, cause, or religion.
- (c) Endorse, support, or oppose, any product, service, company or other commercial entity.
- (d) Appear in any commercial, social, or non-profit publication, or any motion picture, film, video, public broadcast, or any website.

#### **1046.7 OPTIONAL EQUIPMENT - MAINTENANCE, AND REPLACEMENT**

- (a) Any of the items listed in the Uniform and Equipment Specifications as optional shall be purchased totally at the expense of the employee. No part of the purchase cost shall be offset by the Department for the cost of providing the Department issued item.
- (b) Maintenance of optional items shall be the financial responsibility of the purchasing employee. For example, repairs due to normal wear and tear.
- (c) Replacement of items listed in this order as optional shall be done as follows:
  - 1. When the item is no longer functional because of normal wear and tear, the employee bears the full cost of replacement.

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2. When the item is no longer functional because of damage in the course of the employee's duties, it shall be replaced following the procedures for the replacement of damaged personal property. (Policy Manual § 700)

#### **1046.7.1 RETIREE BADGES**

The Chief of Police may issue identification in the form of a badge, insignia, emblem, device, label, certificate, card or writing that clearly states the person has honorably retired from the Clovis Police Department. This identification is separate and distinct from the identification authorized by Penal Code § 25455 and referenced in the Retired Officer CCW Endorsement Policy in this manual.

A badge issued to an honorably retired peace officer that is not affixed to a plaque or other memento will have the words "Honorably Retired" clearly visible on its face. A retiree shall be instructed that any such badge will remain the property of the Clovis Police Department and will be revoked in the event of misuse or abuse (Penal Code § 538d).

#### **1046.7.2 UNIFORM REPLACEMENT**

Any item of uniform clothing that is damaged beyond repair in the line of duty may be replaced at the discretion of the Chief of Police.

Requests for such replacement will be made on the Uniform Replacement form and will be submitted to the office of the Chief. The officer will be responsible for replacing any uniform damaged or lost due to negligence, carelessness or normal wear.

#### **1046.8 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES**

Clovis Police Department employees may not wear any uniform item, accessory or attachment unless specifically authorized in the Uniform and Equipment Specifications or by the Chief of Police or designee.

Clovis Police Department employees may not use or carry any safety item, tool or other piece of equipment unless specifically authorized in the Uniform and Equipment Specifications or by the Chief of Police or designee.

#### **1046.9 UNIFORM AND EQUIPMENT SPECIFICATIONS**

The following are the approved specifications for Clovis Police Department uniforms and accessories:

##### **1046.9.1 HATS**

Clovis police officers are encouraged to maintain a hat for optional duty wear.

##### **(a) Campaign Hat (Optional)**

1. Albourn brand
2. Navy blue

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3. 3X felt
  4. Gold hat shield, black leather bead strap
- (b) Baseball Cap (Optional)
1. Richardson Flex Fit model Pro 585 or model Pro 514
  2. Navy blue
  3. Embroidered Clovis PD star centered on front
  4. Solid twill, no mesh allowed
- (c) The Class "A" hat (Bayly Mod. 11NM2A2, required, see above) may also be worn for regular patrol
1. The specified Class "A" is the only hat allowed for officers attending any event that specifies the Class "A" uniform
- (d) Watch Cap
1. The authorized watch cap is a black Lion Brothers Polartec watch cap.
  2. The word "POLICE" will be stenciled in gold on the front in the dimensions of 5/8" by 3" and may only be worn under the following conditions:
    - (a) Only the authorized cap may be worn
    - (b) The cap must be worn with the POLICE centered above the face
    - (c) The cap should be removed when contacting the public, in the presence of media, and will not be worn inside buildings
    - (d) The watch cap should not be worn during any planned tactical entry
    - (e) Non-Sworn members may wear a plain black Polartec watch cap without the "Police" insignia
    - (f) A supervisor at his/her discretion may mandate the watch cap not be worn
- (e) Command Staff Hat
- (a) Command staff will wear the specified hat for events that require the Class "A" uniform to be worn.
    - (a) Lancaster Brand 100% wool, round, navy blue or Bayly navy blue

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- (b) Appropriate rank hat badge

**1046.9.2 SHIRT**

Permanent press or wool blend (long/short sleeve)

- (a) Midnight blue
- (b) Meeting LAPD specifications
- (c) No insignia, markings or pins are to be worn on the uniform shirt unless specified by this Policy or by Department directive
- (d) Note: PSOs AND CSOs utilize the Flying Cross #95R6625 all weather deluxe tropical light blue shirt with navy epaulettes and pocket flaps.
- (e) Officers may wear the following shirt only under an external vest carrier; Elbeco brand UV1 short sleeve, 5.11 Rapid PDU short sleeve #71332, color: 750, or 5.11 Rapid PDU long sleeve #72197, color: 750 under vest shirt with patches sewn on both sleeves, LAPD Blue

**1046.9.3 PANTS**

Permanent press or wool blend

- (a) Midnight blue
- (b) Meeting LAPD specifications
- (c) Straight or slant pockets
- (d) Sap pockets optional
- (e) Flying Cross Uniform Pants with hidden Cargo pockets; Model PPBPWTRS01

**1046.9.4 DRESS JACKET (CEREMONIAL WEAR)**

Fechheimer brand (Command Jacket)

- (a) Cloth badge tab
- (b) Navy blue
- (c) Gold buttons
- (d) Badge and gold polished name tag will be worn on jacket. Collar insignia will be worn for Lieutenant, Captain and Chief
- (e) Rank insignia for Corporal and Sergeant (cloth) will be worn on the sleeve

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### 1046.9.5 DUTY JACKET/OUTERWEAR

- (a) 5.11 Brand Sabre Jacket 2.0, style # 48112, Black
- (b) 5.11 Brand Chameleon Softshell Jacket, style # 48099 Black
- (c) Horace Small brand convertible
- (d) Conqueror brand lightweight
- (e) Fechheimer Brand Convertible
  - 1. Waist length, black with gold buttons
  - 2. 3/4 length, Protector brand, black w/gold buttons
  - 3. Full length zipper optional
- (f) Spiwalk Brand, Public Safety Performance Fleece/Liner Model S-327 Black
  - 1. Black
  - 2. Crew neck
  - 3. Worn over duty shirt
  - 4. CPD shoulder patches
  - 5. Embroidered badge

### 1046.9.6 FOOTWEAR/BOOTS, OR LACE UP TYPE SHOES/SPORTS SHOES

- (a) Black with no contrasting color
- (b) Round plain toe, capable of maintaining a luster
- (c) Slip-on or loafer type shoes are not authorized
- (d) Athletic shoes with contrasting colors, markings or designs are not authorized. Athletic shoes must be able to maintain a luster
- (e) **Steel toe boots or shoes are not authorized**

### 1046.9.7 TIE

- (a) Broome brand
- (b) Navy blue (LAPD specs)
- (c) Clip on type
- (d) Tie bar w/ gold polished finish (No ornamentation)

### 1046.9.8 BELT

- (a) Black basket weave composite or nylon
- (b) Department issue Velcro under belt

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### 1046.9.9 UNDERGARMENTS (UNIFORMED PERSONNEL)

- (a) Shirts - undershirts may be black or white, crew neck or v-neck style
- (b) Dickies - black, 100% acrylic
- (c) Black turtleneck, long sleeve. Sleeves shall not extend past long sleeve shirt. Shall be of the same color and appearance as the Dickies for cold weather
- (d) Approved mock turtleneck with embroidered CPD logo

### 1046.9.10 SOCKS

- (a) Plain black (white are acceptable if not visible)

### 1046.9.11 RAINGEAR

- (a) Jacket - black, blue or yellow Department issued
- (b) Pant/leggings - as appropriate for severe weather conditions (i.e., flooding)

### 1046.9.12 CLASS C UNIFORM (UTILITY)

The Class "C" uniform is one of the following two options:

- (a) 5.11 Brand
  - 1. 5.11 Brand, TDU long sleeve or short sleeve shirt (#72002), rip-stop, Navy
  - 2. 5.11 Brand, TDU pants (#74003), rip-stop, navy
- (b) Propper Brand
  - 1. Propper Brand, BDU, long or short sleeve shirt, rip-stop, Navy
  - 2. Propper Brand, BDU pants, rip-stop, Navy
- (c) Black boots
- (d) Embroidered CPD badge (gold)
- (e) Embroidered name tape (gold)
- (f) CPD shoulder patches
- (g) Appropriate rank insignia, collar insignia
- (h) Composite basket weave or nylon duty gear
- (i) Pants will not be bloused in boots

### 1046.9.13 LOAD BEARING VEST FOR PATROL DUTY (OPTIONAL - NOT ISSUED)

The approved load bearing vest will be from one of the following vendors. It will be midnight blue in color and it will contain ballistic panels.

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- (a) BPS Tactical: PO BOX 868 Mentone, CA 92359, 909-794-2435, [www.bpstacticalgear.com](http://www.bpstacticalgear.com)
- (b) Elbeco Brand, V1 West Coast DutyMaxx External Vest Carrier, LAPD Blue
- (c) The vest, as with all uniforms and equipment, must be maintained in a clean serviceable condition.

### 1046.9.14 COMPOSITE BASKET WEAVE AND NYLON ACCESSORIES (DEPARTMENT ISSUE)

- (a) Duty belt (1)
- (b) Holster (1)
- (c) Cuff case (1-2)
- (d) Ammo pouch (1)
- (e) Baton holder (expandable baton and/or side handle baton ring)
- (f) O.C. Spray (1)
- (g) Radio holder (1)
- (h) Keepers (4)
- (i) Velcro inner belt (1)
- (j) Key ring (1)
- (k) Glove holder (1)
- (l) Digital recorder (1)
- (m) Pelican flashlight (must be black basket weave or nylon holder if worn on belt)
- (n) Taser and Taser holster, belt or thigh style

### 1046.9.15 ADDITIONAL EQUIPMENT (DEPARTMENT ISSUE)

- (a) Glock Model 22 Gen 4 .40 caliber pistol (1)
- (b) Glock Gen 4 .40 caliber, 15 round magazine (3)
- (c) O.C. spray (1)
- (d) Handcuffs (1-2)
- (e) Side-handle or expandable baton (upon certification) (1)
- (f) Rain jacket and pants (1)
- (g) Department issued ammunition, 46 rounds
- (h) Vest (Department issue) (1) Ballistic protection will be a minimum of level 3A

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**1046.9.16 APPROVED ADDITIONAL EQUIPMENT (OPTIONAL-NOT ISSUED)**

- (a) A folding lock-blade or utility knife, or multi-tool, with a blade of no more than four (4) inches may be carried on the belt in a black basket weave composite or nylon holder, or carried in a pocket or other location that does not interfere with the officer in any way
- (b) Gloves (plain black). Sap or weighted gloves are not authorized
- (c) White gloves for special events as directed by Chief of Police
- (d) Snaps or fasteners must be either Velcro type or non-reflective black
- (e) Cellular phone holder or case must be black

**1046.9.17 MANDATORY EQUIPMENT - (TO BE WORN WHILE IN UNIFORM AND ON DUTY BELT)**

- (a) Expandable or side handle baton
- (b) Handgun and holster
- (c) Handcuffs and handcuff case
- (d) OC spray and holder
- (e) Radio and radio case
- (f) Ammo pouch with two fully loaded magazines
- (g) Soft body armor
- (h) Latex gloves

**1046.9.18 WEARING OF ACCESSORIES**

- (a) Dress Jacket
  - 1. Badge
  - 2. Name plate, gold polished
  - 3. Clovis Police Department Patches
  - 4. Rank insignia cloth (Corporal and sergeant) and collar (Lt., Capt., and Chief).
  - 5. Service stripes
- (b) Duty Jacket black
  - 1. Badge or embroidered CPD star
  - 2. Name plate or embroidered name tape
  - 3. Clovis Police Department patches
  - 4. Rank insignia (cloth)
- (c) Shirt - Long Sleeve
  - 1. Badge



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2. Name plate (polished gold finish)
  3. Clovis Police Department patches
  4. Rank insignia (cloth)
  5. Service stripes (optional)
  6. Tie (optional)
- (d) **Shirt - Short Sleeve**
1. Badge
  2. Name plate (polished gold finish)
  3. Clovis Police Department patches
  4. Rank insignia (cloth)
- (e) **Service Stripes**
1. Clovis Police Department blue/gold - will be worn on dress jacket and may be worn on the long sleeve shirt only
  2. One stripe for each four (4) years completed as a full-time police officer
  3. Prior service as a sworn, full-time police officer at an outside agency will be accepted
- (f) **Department Name Plate**
1. Section 830.10 of the California Penal Code requires uniformed officers to wear a nameplate, badge, or other device which bears on its face the name or identification number of such officer. In compliance with this section, nameplates shall be worn on the outer uniform shirt, jacket sweater or load bearing vest.
- (g) **Departmental Awards and Accessory Items**
1. Only three awards may be worn at any one time. The three awards worn shall consist of the highest three awards. The awards are to be worn without spaces between them. They are to be affixed to the above authorized uniforms in the following manner:
  2. Awards shall be affixed atop the name plate, centered on the name plate, with a small gap between the name plate and the awards. For purposes of uniformity, the gap will be no more than 2mm (the thickness of a U.S. nickel) Multiple awards of the same medal will be worn with a three-sixteenth inch star for each additional award. (e.g. 2 lifesaving awards will be worn on one ribbon with (1) three-sixteenth inch star affixed). Officers receiving multiple awards will be issued ribbons with the appropriate star affixed. Only the items listed below may be worn on the Department uniform. No other item(s) may be affixed to the Department uniform without permission of the Chief of Police.
  3. For purposes of uniformity, the darkest color of the award shall be affixed inboard to the chest.

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4. Unit Identification plate ie. "FTO" shall be affixed above the awards with the same gap in between. The unit identification plates are to be affixed vertically, one atop another starting with the largest unit identification plate nearest the awards and ending (at the top) with the smallest.
5. Insignia may only be worn if the officer is currently assigned to the corresponding unit in good standing. Officers who are no longer working the particular assignment may not wear the insignia on their uniform. For example, a former K-9 handler who is no longer in the K-9 unit, may not wear the K-9 insignia. Insignia shall be worn in a row of no more than three insignia directly above the right breast pocket of the uniform shirt if the officer has no other medals that are worn. If the officer is wearing department medals, they shall be placed directly above the right breast pocket as listed above, and the insignia shall be placed in a row of no more than three above the medals.

(a) **Authorized Department Awards**

1. Medal of Valor
2. Lifesaving Medal
3. Medal of Distinction
4. Medal of Merit
5. Unit Citation
6. Community Medal
7. Medal of Commendation
8. Fitness Medal

(b) **Authorized Accessory Items**

1. CHP 10851 Pin
2. EOD Pin
3. Motor Wing
4. Paramedic/EMT Pin
5. K9 Pin
6. SWAT Pin
7. Crisis Negotiator Pin
8. FTO Pin
9. Zero Motor Pin
10. M.A.G.E.C.
11. MADD Award Pin

**Clovis Police Department**  
Clovis Police Department Policy Manual

***Uniform Regulations***

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**1046.9.19 RANK INSIGNIA**

- (a) Chief - Four gold stars
- (b) Deputy Chief- Two gold stars
- (c) Captain - Two gold bars
- (d) Lieutenant - One gold bar
- (e) Sergeant - Three-striped chevron
- (f) Corporal- Two-striped chevron
- (g) Chevrons will be Clovis Police Department type (blue/gold)
- (h) Additional insignias and medals, as approved by the Chief of Police only

## Nepotism and Conflicting Relationships

### 1050.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure equal opportunity and effective employment practices by avoiding actual or perceived favoritism, discrimination or actual or potential conflicts of interest by or between members of this department. These employment practices include: recruiting, testing, hiring, compensation, assignment, use of facilities, access to training opportunities, supervision, performance appraisal, discipline and workplace safety and security.

#### 1050.1.1 DEFINITIONS

**Business relationship** - Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder, or investor in an outside business, company, partnership, corporation, venture or other transaction, where the Department employee's annual interest, compensation, investment or obligation is greater than \$250.

**Conflict of interest** - Any actual, perceived or potential conflict of interest in which it reasonably appears that a department employee's action, inaction or decisions are or may be influenced by the employee's personal or business relationship.

**Nepotism** - The practice of showing favoritism to relatives over others in appointment, employment, promotion or advancement by any public official in a position to influence these personnel decisions.

**Personal relationship** - Includes marriage, cohabitation, dating or any other intimate relationship beyond mere friendship.

**Public official** - A supervisor, officer or employee vested with authority by law, rule or regulation or to whom authority has been delegated.

**Relative** - An employee's parent, stepparent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling or grandparent.

**Subordinate** - An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

**Supervisor** - An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate employee.

### 1050.2 RESTRICTED DUTIES AND ASSIGNMENTS

The Department will not prohibit all personal or business relationships between employees. However, in order to avoid nepotism or other inappropriate conflicts, the following reasonable restrictions shall apply (Government Code § 12940):

- (a) Employees are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.

# Clovis Police Department

## Clovis Police Department Policy Manual

### Nepotism and Conflicting Relationships

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1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved employee to an uninvolved supervisor.
  2. When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing employees in such supervisor/subordinate situations. The Department, however, reserves the right to transfer or reassign any employee to another position within the same classification in order to avoid conflicts with any provision of this policy.
- (b) Employees are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship.
  - (c) Whenever possible, FTOs and other trainers will not be assigned to train relatives. FTOs and other trainers are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully completed and the employee is off probation.
  - (d) To avoid actual or perceived conflicts of interest, members of this department shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of or as a direct result of any official contact.
  - (e) Except as required in the performance of official duties or, in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual they know or reasonably should know is under criminal investigation, is a convicted felon, parolee, fugitive or registered sex offender or who engages in serious violations of state or federal laws.

#### 1050.2.1 EMPLOYEE RESPONSIBILITY

Prior to entering into any personal or business relationship or other circumstance which the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, the employee shall promptly notify his/her uninvolved, next highest level of supervisor.

Whenever any employee is placed in circumstances that would require the employee to take enforcement action or provide official information or services to any relative or individual with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her uninvolved, immediate supervisor. In the event that no uninvolved supervisor is immediately available, the employee shall promptly notify dispatch to have another uninvolved employee either relieve the involved employee or minimally remain present to witness the action.

***Nepotism and Conflicting Relationships***

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**1050.2.2 SUPERVISOR'S RESPONSIBILITY**

Upon being notified of, or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to promptly mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify the Chief of Police of such actual or potential violations through the chain of command.

## **Department Badges**

### **1052.1 PURPOSE AND SCOPE**

The Clovis Police Department badge and uniform patch as well as the likeness of these items and the name of the Clovis Police Department are property of the Department and their use shall be restricted as set forth in this policy.

### **1052.2 POLICY**

The uniform badge shall be issued to department members as a symbol of authority and the use and display of departmental badges shall be in strict compliance with this policy. Only authorized badges issued by this department shall be displayed, carried or worn by members while on duty or otherwise acting in an official or authorized capacity.

#### **1052.2.1 FLAT BADGE**

Sworn officers, with the written approval of the Chief of Police may purchase, at his/her own expense, a flat badge capable of being carried in a wallet. The use of the flat badge is subject to all the same provisions of departmental policy as the uniform badge.

- (a) An officer may sell, exchange, or transfer the flat badge he/she purchased to another officer within the Clovis Police Department with the written approval of the Chief of Police.
- (b) Should the flat badge become lost, damaged, or otherwise removed from the officer's control, he/she shall make the proper notifications as outlined in the Department Owned and Personal Property Policy.
- (c) An honorably retired officer may keep his/her flat badge upon retirement.
- (d) The purchase, carrying or display of a flat badge is not authorized for non-sworn personnel.

#### **1052.2.2 NON-SWORN PERSONNEL**

Badges and departmental identification cards issued to non-sworn personnel shall be clearly marked to reflect the position of the assigned employee (e.g. Parking Control, Dispatcher).

- (a) Non-sworn personnel shall not display any department badge except as a part of his/her uniform and while on duty, or otherwise acting in an official and authorized capacity.
- (b) Non-sworn personnel shall not display any department badge or represent him/herself, on or off duty, in such a manner which would cause a reasonable person to believe that he/she is a sworn peace officer.

## ***Department Badges***

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### **1052.2.3 RETIREE UNIFORM BADGE**

Upon honorable retirement employees may purchase his/her assigned duty badge for display purposes. It is intended that the duty badge be used only as private memorabilia as other uses of the badge may be unlawful or in violation of this policy.

### **1052.3 UNAUTHORIZED USE**

Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

Department badges are issued to all sworn employees and non-sworn uniformed employees for official use only. The department badge, shoulder patch or the likeness thereof, or the department name shall not be used for personal or private reasons including, but not limited to, letters, memoranda, and electronic communications such as electronic mail or web sites and web pages.

The use of the badge, uniform patch and department name for all material (printed matter, products or other items) developed for department use shall be subject to approval by the Chief of Police.

Employees shall not loan his/her department badge or identification card to others and shall not permit the badge or identification card to be reproduced or duplicated.

### **1052.4 PERMITTED USE BY EMPLOYEE GROUPS**

The likeness of the department badge shall not be used without the expressed authorization of the Chief of Police and shall be subject to the following:

- (a) The employee associations may use the likeness of the department badge for merchandise and official association business provided they are used in a clear representation of the association and not the Clovis Police Department. The following modifications shall be included:
  - 1. The text on the upper and lower ribbons is replaced with the name of the employee association.
  - 2. The badge number portion displays the acronym of the employee association.
- (b) The likeness of the department badge for endorsement of political candidates shall not be used without the expressed approval of the Chief of Police.



## **Modified-duty / Alternate-duty Assignments**

### **1054.1 PURPOSE AND SCOPE**

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, City rules, current memorandums of understanding or collective bargaining agreements. For example, nothing in this policy affects the obligation of the Department to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability that is protected under federal or state law.

### **1054.2 POLICY**

Subject to operational considerations, the Clovis Police Department may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Department with a productive employee during the temporary period.

### **1054.3 GENERAL CONSIDERATIONS**

Priority consideration for temporary modified-duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature. Employees having disabilities covered under the Americans with Disabilities Act (ADA) or the California Fair Employment and Housing Act (Government Code § 12940 et seq.) shall be treated equally, without regard to any preference for a work-related injury.

No position in the Clovis Police Department shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Department. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Chief of Police or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle, engaging in outside employment, or being otherwise limited in employing their peace officer powers.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

### **1054.4 PROCEDURE**

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

### ***Modified-duty / Alternate-duty Assignments***

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Employees seeking a temporary modified-duty assignment should submit a written request to their Division Commanders or the authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

- (a) An assessment of the nature and probable duration of the illness or injury.
- (b) The prognosis for recovery.
- (c) The nature and scope of limitations and/or work restrictions.
- (d) A statement regarding any required workplace accommodations, mobility aids or medical devices.
- (e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Division Commander will make a recommendation through the chain of command to the Chief of Police regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief of Police or the authorized designee shall confer with the Personnel Risk Management or the City Attorney as appropriate.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by the Watch Commander or Division Commander, with notice to the Chief of Police.

#### **1054.5 ACCOUNTABILITY**

Written notification of assignments, work schedules and any restrictions should be provided to employees assigned to temporary modified-duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate department operations and the employee's medical appointments, as mutually agreed upon with the Division Commander.

##### **1054.5.1 EMPLOYEE RESPONSIBILITIES**

The responsibilities of employees assigned to temporary modified duty shall include, but not be limited to:

- (a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.
- (b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.
- (c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.
- (d) Submitting a written status report to the Division Commander that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days.

### *Modified-duty / Alternate-duty Assignments*

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#### **1054.5.2 SUPERVISOR RESPONSIBILITIES**

The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified duty.

The responsibilities of supervisors shall include, but not be limited to:

- (a) Periodically apprising the Division Commander of the status and performance of employees assigned to temporary modified duty.
- (b) Notifying the Division Commander and ensuring that the required documentation facilitating a return to full duty is received from the employee.
- (c) Ensuring that employees returning to full duty have completed any required training and certification.

#### **1054.6 MEDICAL EXAMINATIONS**

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations.

The Department may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

#### **1054.7 PREGNANCY**

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)). A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment.

##### **1054.7.1 NOTIFICATION**

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the City's personnel rules and regulations regarding family and medical care leave.

#### **1054.8 PROBATIONARY EMPLOYEES**

Probationary employees who are assigned to a temporary modified-duty assignment shall have their probation extended by a period of time equal to their assignment to temporary modified duty.

#### **1054.9 MAINTENANCE OF CERTIFICATION AND TRAINING**

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees

# Clovis Police Department

## Clovis Police Department Policy Manual

### *Modified-duty / Alternate-duty Assignments*

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who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

# Employee Speech, Expression and Social Networking

## 1058.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balancing of employee speech and expression with the needs of the Department.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit an employee from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, about matters of public concern, such as misconduct or corruption.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

### 1058.1.1 APPLICABILITY

This policy applies to all forms of communication including, but not limited to, film, video, print media, public or private speech, use of all Internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video and other file-sharing sites.

### 1058.1.2 DEFINITIONS

- (a) **Social Networking Website:** An Internet web site that provides a virtual community for people interested in a particular subject or communicating with each other. Members can create their own online "profile" with biographical data, pictures, likes, dislikes, and any other information they choose to post. They communicate with each other by voice, chat, instant message, video conference, and blogs; and the service typically provides a way for members to contact "friends" of other members. A "social networking website" is like a "virtual community" where a group of people can use the internet to communicate with each other about any topic. One can find dating sites, friendship sites, sites with a business purpose, and hybrids that offer a combination of these. Current examples of social networking websites are: Facebook, Myspace, Twitter, Second Life, World of Warcraft, etc.
- (b) **Electronic Communication:** Any kind of communication created by, represented by, sent to, or stored by any user using any electronic communications system, including all information, data, and attachments to the communication.
- (c) **Blog** (a contraction of the term "weblog"): A type of website usually maintained by an individual with regular entries of commentary, descriptions of events, or other material

*Employee Speech, Expression and Social Networking*

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such as graphics or video. Entries are commonly displayed in reverse chronological order. "Blog" can also be used as a verb, meaning to maintain or add content to a blog.

- (d) **Microblog:** Another type of blogging featuring very short posts, such as, 140 characters or less (example: twitter.com) staying connected in real time. Followers of a microblog typically "subscribe" to a microblog of another and automatically receive newly posted information.
- (e) **Virtual Worlds:** A computer-simulated world where users can socialize, connect, play games, and create an alternate reality. Users can interact with other users in real time. Users can be represented as themselves or fictional characters. Virtual worlds typically have "currency" which is specific to the website, which can be purchased with real world money or earned by accomplishments.
- (f) **Pseudonym:** A fictitious name, especially a pen name. This applies to "user names" or "user account identifications."
- (g) **Personal Information:** Any type of information that might lead to the identification of any individual. Examples may include social security numbers, dates of birth, addresses, phone numbers, e-mail addresses, driver's license, or other state identification numbers.
- (h) **Electronic Media:** Digital photos, audio recordings, videos, or digital information.
- (i) **Post or Posting:** Text or digital information that is placed on a website. Messages sent to a news group.
- (j) **Confidential Information:** Digital media depicting the Clovis Police Department, its employees, crime scenes, internal videos, daily work activity, or information sensitive to law enforcement; Digital media or Information, which could be considered personal or private or could potentially expose the police department to liability.
- (k) **Proprietary Information:** Work product. Any photographs, videos, or information, digital or otherwise, created or obtained while an employee is on duty, remains the property of the Clovis Police Department. The work product of the Clovis Police Department is public in nature and is subject to all federal law, state law, city codes, and department policy regarding its confidentiality and release.
- (l) **Work Product:** Anything created by an employee that is considered to become the property of the Clovis Police Department. Examples may include, but are not limited to: photos, videos, audio recordings, or blog entries depicting the Clovis Police Department, its employees, crime scenes, internal videos, daily work activity, information sensitive to law enforcement, electronic files or documents, and information created or obtained during the performance of an employee's duties.

## ***Employee Speech, Expression and Social Networking***

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### **1058.2 POLICY**

Public employees occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of this department. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that employees of this department be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the Clovis Police Department will carefully balance the individual employee's rights against the Department's needs and interests when exercising a reasonable degree of control over its employees' speech and expression.

It is also the responsibility of each employee to know and follow the City of Clovis' Technology Users Policy and Agreement.

### **1058.3 SAFETY**

Employees should consider carefully the implications of their speech or any other form of expression when using the Internet. Speech and expression that may negatively affect the safety of the Clovis Police Department employees, such as posting personal information in a public forum, can result in compromising an employee's home address or family ties. Employees should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety of any employee, an employee's family or associates. Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph and name or address of an officer who is working undercover.
- Disclosing the address of a fellow officer.
- Otherwise disclosing where another officer can be located off-duty.

#### **1058.3.1 ON DUTY USE**

Employees using social networking websites as part of their assigned duties are subject to the following guidelines:

- (a) **Investigations:** Employees, who are conducting investigations as part of their normal duty assignment, are specifically authorized to use social networking websites to aid in their investigation. Example: using pseudonyms for user name(s), locations, etc. to gain access to electronic communication(s) or information relevant to an investigation.
- (b) Employees who use social networking websites to conduct police department business as part of their normal duty assignment, shall use a department sponsored social networking website and not a personal social networking website, after obtaining authorization from the Chief of Police or his/her designee. Example: Police Department Social Network site, Reserve Police Officer group coordinator, Police Department Volunteers group coordinator, Police Explorers group coordinator, Crime Scene Investigators group coordinator, etc.

***Employee Speech, Expression and Social Networking***

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- (c) All content placed on a city sponsored social networking website should be reviewed and approved by the employee's direct supervisor.
- (d) Employees who become aware of a violation of this policy shall notify a department supervisor or manager as soon as practical.

**1058.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT**

To meet the department's safety, performance and public-trust needs, the following are prohibited unless the speech is otherwise protected (for example, an employee speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, on a matter of public concern):

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Clovis Police Department or its employees.
- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Clovis Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Clovis Police Department or its employees. Examples may include:
  - 1. Statements that indicate disregard for the law or the state or U.S. Constitution.
  - 2. Expression that demonstrates support for criminal activity.
  - 3. Participating in sexually explicit photographs or videos for compensation or distribution.
- (c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination or illegal behavior.
- (d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the Department. For example, a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape.
- (e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Clovis Police Department.
- (f) Use or disclosure, through whatever means, of any information, photograph, video or other recording obtained or accessible as a result of employment with the Department for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief of Police or the authorized designee.



# Clovis Police Department

## Clovis Police Department Policy Manual

### Employee Speech, Expression and Social Networking

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- (g) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the Clovis Police Department on any personal or social networking or other website or web page, without the express authorization of the Chief of Police.
- (h) Accessing websites for non-authorized purposes, or use of any personal communication device, game device or media device, whether personally or department-owned, for personal purposes while on-duty, except in the following circumstances:
  - 1. When brief personal communication may be warranted by the circumstances (e.g., inform family of extended hours).
  - 2. During authorized breaks such usage should be limited as much as practicable to areas out of sight and sound of the public and shall not be disruptive to the work environment.

Employees must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

#### 1058.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or officer associations, employees may not represent the Clovis Police Department or identify themselves in any way that could be reasonably perceived as representing the Clovis Police Department in order to do any of the following, unless specifically authorized by the Chief of Police (Government Code § 3206; Government Code § 3302):

- (a) Endorse, support, oppose or contradict any political campaign or initiative.
- (b) Endorse, support, oppose or contradict any social issue, cause or religion.
- (c) Endorse, support or oppose any product, service, company or other commercial entity.
- (d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or on any website.

Additionally, when it can reasonably be construed that an employee, acting in his/her individual capacity or through an outside group or organization (e.g., bargaining group or officer associations), is affiliated with this department, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Clovis Police Department.

Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized

# Clovis Police Department

## Clovis Police Department Policy Manual

### Employee Speech, Expression and Social Networking

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bargaining unit or officer associations, on political subjects and candidates at all times while off-duty.

However, employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

#### **1058.5 PRIVACY EXPECTATION**

Employees forfeit any expectation of privacy with regard to e-mails, texts or anything published or maintained through file-sharing software or any Internet site (e.g., Facebook, MySpace) that is accessed, transmitted, received or reviewed on any department technology system.

The Department reserves the right to access, audit and disclose for whatever reason any message, including attachments, and any information accessed, transmitted, received or reviewed over any technology that is issued or maintained by the Department. This includes the department e-mail system, computer network or any information placed into storage on any department system or device.

It also includes records of all key strokes or web-browsing history made at any department computer or over any department network.

The fact that access to a database, service or website requires a user name or password will not create an expectation of privacy if it is accessed through a department computer or network. However, the Department may not require an employee to disclose a personal user name or password or open a personal social website, except when access is reasonably believed to be relevant to the investigation of allegations of work related misconduct (Labor Code § 980).

#### **1058.6 CONSIDERATIONS**

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief of Police or authorized designee should consider include:

- (a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.
- (b) Whether the speech or conduct would be contrary to the good order of the Department or the efficiency or morale of its members.
- (c) Whether the speech or conduct would reflect unfavorably upon the Department.
- (d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of his/her duties.
- (e) Whether similar speech or conduct has been previously authorized.
- (f) Whether the speech or conduct may be protected and outweighs any interest of the Department.

# Clovis Police Department

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## *Employee Speech, Expression and Social Networking*

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### **1058.7 TRAINING**

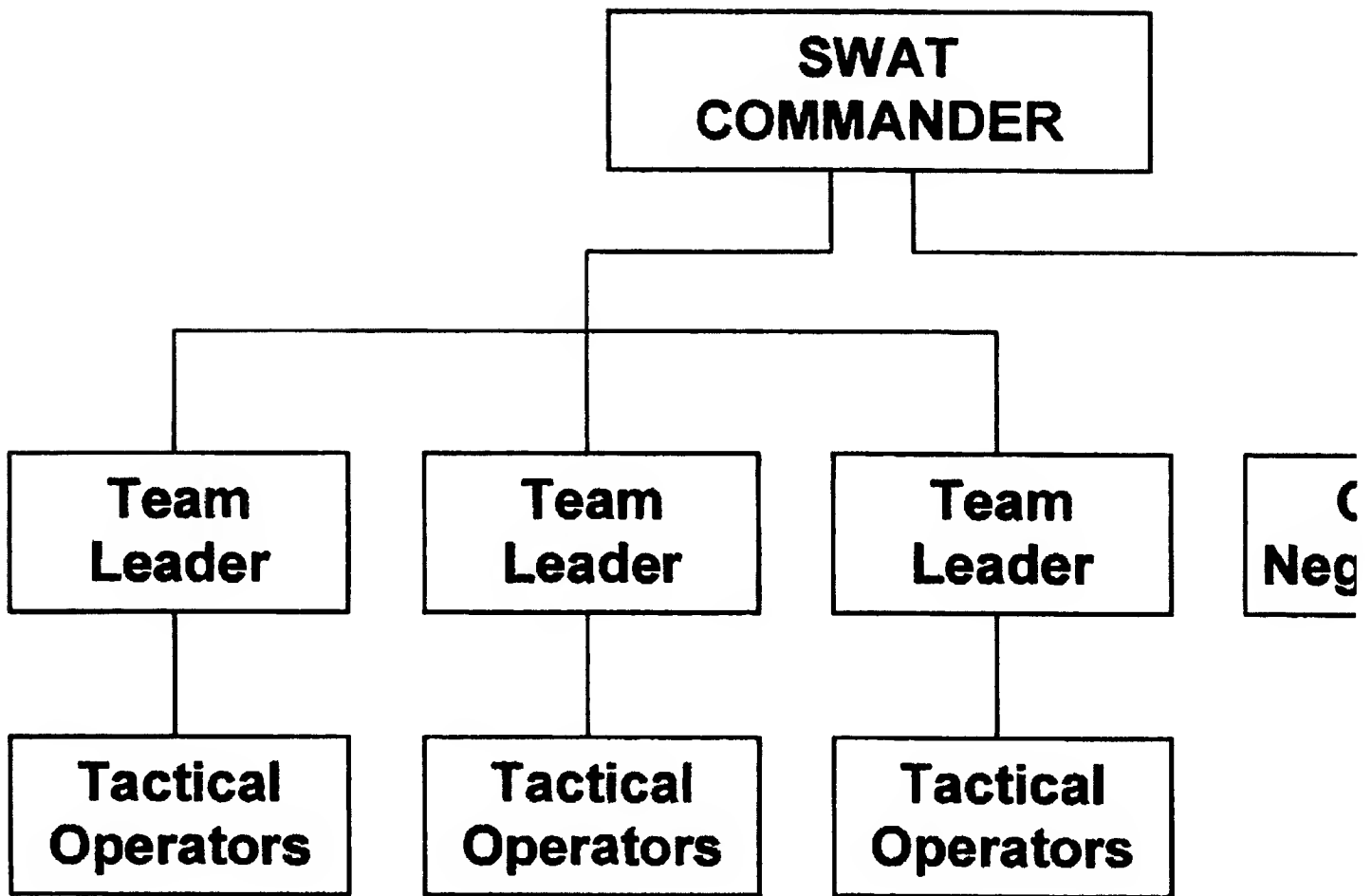
Subject to available resources, the Department should provide training regarding employee speech and the use of social networking to all members of the Department.

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## Attachments

## **SWATOrgChart.jpg**



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